

Fall 2010


Clark Memorandum: Fall 2010

J. Reuben Clark Law Society

BYU Law School Alumni Association

J. Reuben Clark Law School

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CLARK MEMORANDUM

J. Reuben Clark

Law School

Brigham Young

University

Fall >> 2010

ESSENTIALS OF A MORMON JURISPRUDENCE



**Keys to Being Happy,
Successful, and Fulfilled**
Judge J. Clifford Wallace



**Essentials of a
Mormon Jurisprudence**
John W. Welch

**A Walk of
Thanksgiving**
David Dominguez



**"How Shall
This Be?":
A Message
from the
Christmas
Story**
Jane H. Wise



MEMORANDA
+ NEW FACULTY
+ RETIREMENTS
+ AWARDS AND
APPOINTMENTS
+ CHURCH CALLINGS
+ LIFE IN THE LAW

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Carl S. Hawkins
1926–2010

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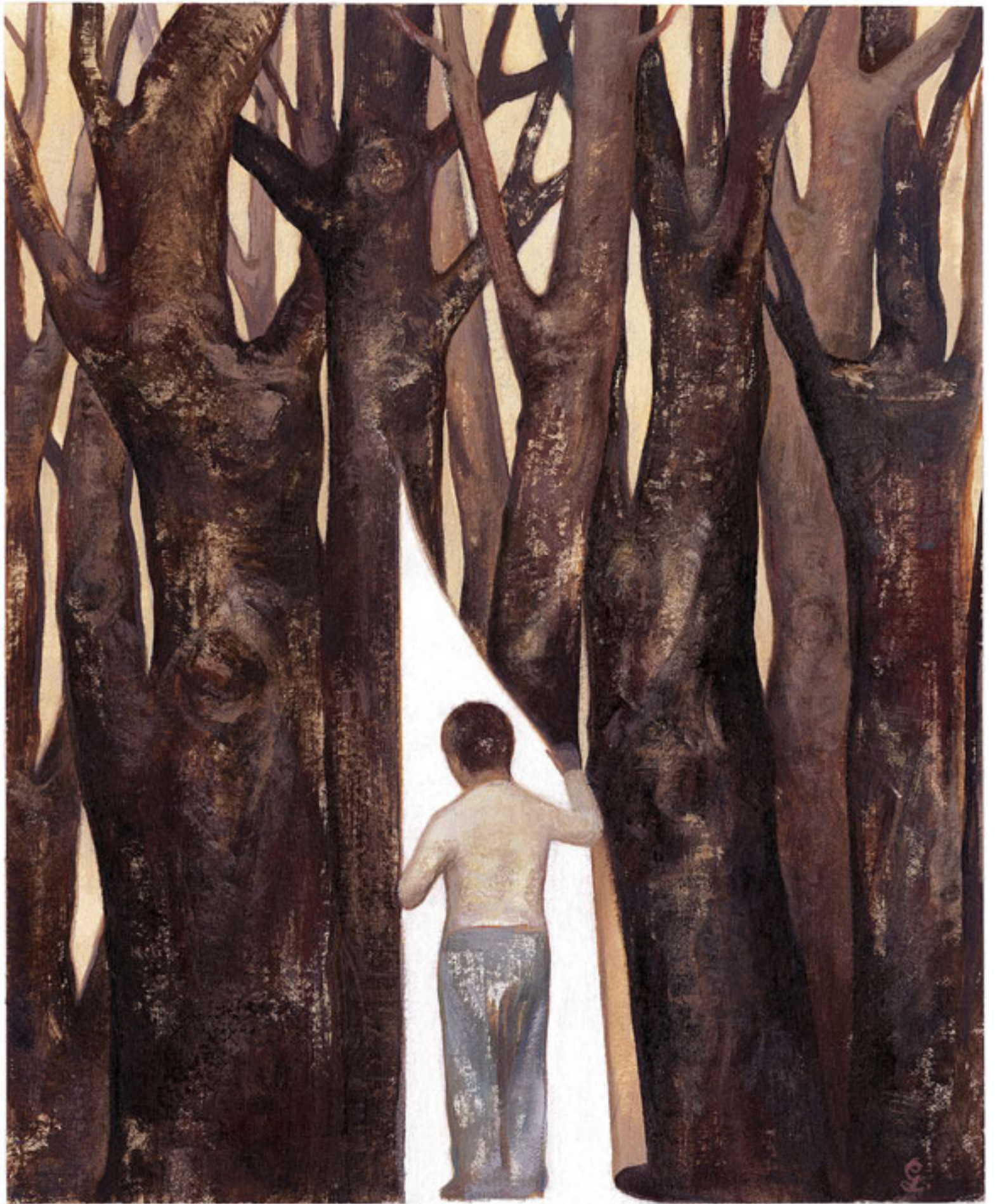
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a walk of
thanksgiving

THE FOLLOWING IS AN EXCERPT FROM PROFESSOR DAVID DOMINGUEZ'S
ARTICLE "LEGAL EDUCATION AND THE ECOLOGY OF CULTURAL JUSTICE: HOW
AFFIRMATIVE ACTION CAN BECOME RACE-NEUTRAL BY 2028," *OREGON LAW
REVIEW* 88, NO. 1 (2009):157-94. >>> ILLUSTRATIONS BY GÉRARD DUBOIS

by david
dominguez



LOS ANGELES, YALE, UC BERKELEY, AND BYU || I was raised in, at the time, one of the toughest sections of Los Angeles in the vicinity of the University of Southern California campus. There was no way I was supposed to reach my 18th year, let alone attend Yale University, receive legal training at the University of California, Berkeley, then move to Utah to join the law faculty at Brigham Young University, where I have been teaching for 20 years.

1954 || In 1954 all nine justices of the U.S. Supreme Court spoke with one voice in *Brown v. Board of Education*.¹ Henceforth, America would be a land where all children would get equal opportunity to excel academically. No longer would children be robbed of their educational promise on account of skin color. A new nation was truly born in 1954, and the unanimity among nine, quite diverse Supreme Court justices was striking. Of one accord, they issued a challenge to all Americans to do whatever was necessary, as quickly as necessary, to take the printed words of a legal opinion and turn them into a full-fledged reality of educational equity and racial harmony.

In 1954 my story began as well. I, the newest member of the Dominguez family, was the fourth child, the oldest being five years of age at the time. Even though this would mean six people scratching out a living in a tiny ramshackle “cottage” in one of the scariest sections of inner-city Los Angeles, there was unanimity of joy and celebration in the household.

Both for *Brown* and for the new brown child, the legal and social reality of racial discrimination in 1954 America meant lean times lay ahead. No matter how happy my father was at my birth, it did not increase employment opportunities or the size of the paycheck for a naturalized Mexican who immigrated with hope of achieving the American dream. He worked very hard but wound up with very little except bitter experiences of being told, “No Mexicans need apply,” or the ubiquitous sign “No dogs or Mexicans allowed.”

In 1962, when President Kennedy was forced to send federal marshals to assist in the enforcement of *Brown*, I did not know, as a boy of eight, that there was anything odd or amiss with the ethnic makeup of my predominately black and Latino neighborhood that included a smattering of virtually all other ethnic minorities. It did not faze me that the student population of my school included very few whites.

As every kid could testify growing up during my years in the killing fields of downtown and south central Los Angeles, the chances of surviving childhood in one piece were not good. If gangs, drugs, and gunfire did not claim us, sexually transmitted diseases would. If somehow

I made it to my 18th birthday, Vietnam was waiting to send me to a new killing field far, far away—most likely to come back home in a pine box.² Prospects were dim, to say the least, that *Brown* would ever mean anything to brown and black children.

JAIL || When I was 10 or 11, a bunch of children, including me, gathered on the playground. Since it was a Sunday, the playground was closed, and there was nothing to do. Bored and restless, someone suggested we break into the equipment room of the school and “liberate” the sports gear. Before the suggestion was complete, we were jimmying the lock into the facility. Once inside, we remembered that the best stuff was secured in a second-story closet. We climbed the steel ladder that led up to the closet and broke the lock. All inside, we marveled at the gloves, helmets, and baseball bats. One of the older guys blurted out, “Hey, we can fetch good coin for these items. I know where we can pawn this stuff.”

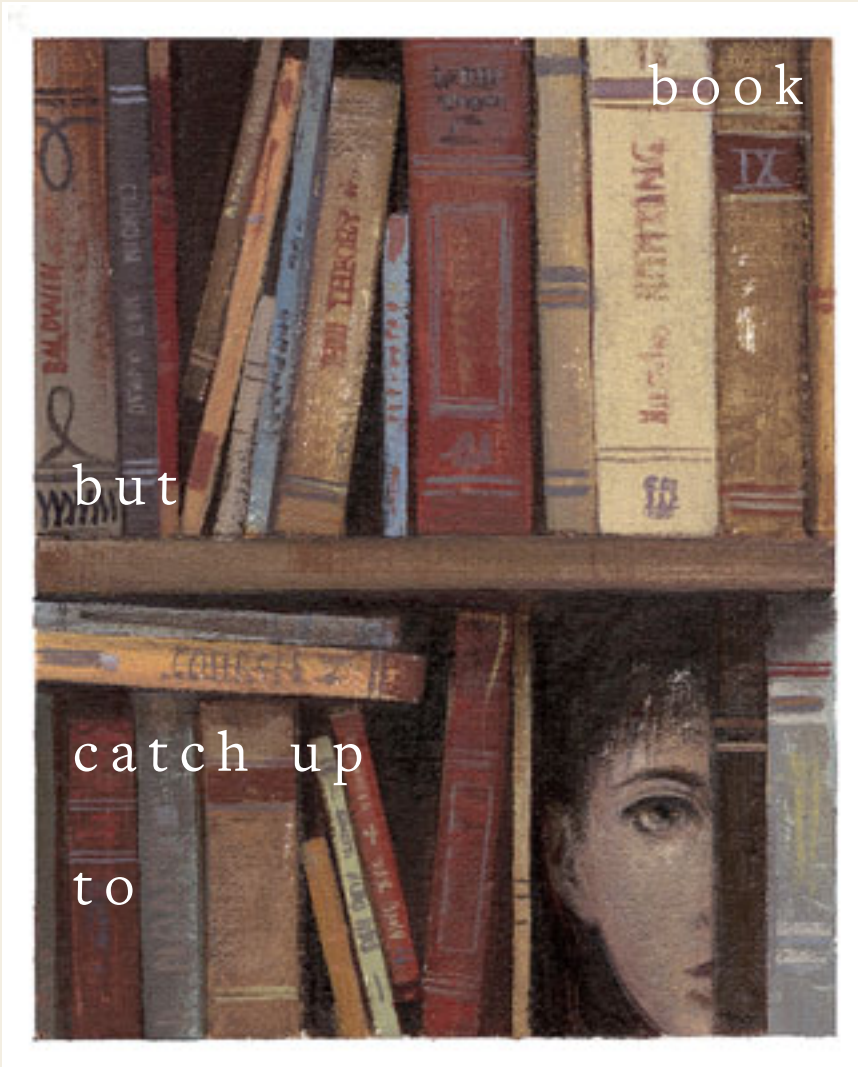
I was horrified. Breaking and entering to use the equipment struck me as worthwhile, even resourceful, but I had no desire to steal. I liked the playground director and could not bear the thought of him seeing me as a thief. So I started to back out of the room, saying to the others that I wanted no part of their plan. As my feet reached the threshold of the door, however, my heel caught on the lip of the threshold, and I started to fall straight back through the door. My knees buckled, and I fell headfirst from the second-story closet onto solid concrete. My body twitched uncontrollably, and then I froze.

I later learned from the other guys that they figured I had killed myself and that they would be blamed for causing the death. They immediately replaced all the sports equipment, ran away from the playground, and left me there sprawled out on the concrete, bleeding from my head.

We were all on our way to the jail at the juvenile detention center when the playground director, piecing together the story of how we almost stole the baseball gear, intervened. You might say he went to bat for me, and I was removed from the group headed for lockup. Apparently, it was decided that the night spent at the county psych ward and the baseball-size lump on the side of my head was punishment enough.

YALE || Then 1972 happened. I was 17 and looking to graduate from high school that year. I had enjoyed the party life of high school and was prepared to join the workforce. I had no thought of going to college the day I was summoned to meet with the high school counselor. Mrs. MacKenzie, the lead counselor, wasted no time: “Have you heard of Yale?”³ “No,” I replied. “Do you know where New Haven, Connecticut, is?” Again I replied that I had no idea

you can
catch up
with their



book
learning,

but
can they

catch up
to

your

street

smarts?

of what she was talking about. She reached back to a large rolled-up map of the United States, placed it on her desk, unrolled it, and asked: "Do you know where Los Angeles is on the map?" I placed my finger on the large dot signifying the City of Angels, and Mrs. MacKenzie then lifted my finger and placed it back down on the extreme other side of the map: "Here is New Haven." She carefully explained that there was a group of illustrious universities on the East Coast known as the "Ivy League," and Yale, in particular, was aggressively pursuing a radical social and educational experiment called "affirmative action." Yale was asking Mrs. MacKenzie to identify one graduating senior who possessed the raw academic talent and boundless temerity to take his place in the 1972 entering class. "I immediately thought of you, David."

So the *Brown* decision, helped mightily by explosive riots in major cities, as well as ongoing street protests and public demonstrations around the country, found a way to deliver on its promise to me in 1972. "But why was I picked?" I wondered. I had done nothing to deserve the radical new trajectory of my life story.

It was soon painfully obvious to everyone that I did not merit an admissions spot in the Yale freshman class. I had no credentials to stack up against the academic prowess, amazing accomplishments, and cultural sophistication of my fellow "Elis." And this fact became abundantly clear when the first essay I wrote in English was returned to me covered in red ink with a note appended to the grade of zero. The professor wrote: "I would have given this paper an F, but that would be giving it too much credit."

Things went from bad to worse that first semester of my freshman year. Consequently, I decided that I would bide my time until the Christmas break rolled around, fly home, and never return. While pondering this plan over lunch one day in late November, a very pretty coed, Catie Stevens, asked what I was planning to do during the upcoming Thanksgiving weekend. When I said I'd be hanging around campus, she invited me to spend the weekend at her family estate in Wallingford. Mind you, the Stevens family, led by the father, John B. Stevens (J.B.), was truly the upper crust of East Coast society, and here I was, a low-class thug, for all intents and purposes, being asked to join in their traditional, family Thanksgiving dinner. I leapt at the chance!

That Thanksgiving the whole Stevens family made me feel completely at home despite the extreme cultural chasm between us. Catie's act at the dining hall of going well out of her way to show kindness was, I soon learned, a common trait of the Stevens family. Early the next morning, J.B. asked me to join him along a favorite footpath. As we walked along the snowy fields of the Stevens estate, J.B. inquired about my experience so far at Yale. I was so grateful for his love and comfort—and already impressed that Yale meant so much to his family with many generations of "Old Blues"—that I could not bring myself to answer his question honestly. I still felt the acute sting of that zero on my first English essay.

J.B. could see disconsolation written all over me. After I mumbled something similar to "Yale is a great place, but, maybe, I am just too far behind academically to ever catch up," he looked straight at me and asked if I was leaving something out, namely what I offered to the education of my Yale classmates. "Me?" I answered, incredulous at his suggestion. I thought to myself, the biggest "major" at my downtown Los Angeles high school was English as a second language! There is nothing I bring to the table at Yale except glaring, woeful deficiencies. I am totally out of my element, and there is no way I'll ever fit in. Yep, I am going to quit. Despite the hope of *Brown*, the "affirmative action" experiment failed.

J.B. could see the wheels spinning in my mind and took it upon himself to forever change my life with his challenge. He said:

Let's assume that it will take you working as hard as you ever have, day and night, for you to catch up to your classmates. Yes, it will be difficult, maybe even painful at times. But it can be done, and you can do it, or else Yale would not have asked you to join the freshman class. Now let's consider this from the other side of the fence. What would it take for them to catch up to lessons you have learned growing up the way you did? How long do you think your classmates would last if they were dropped suddenly into your neighborhood?

I remember smiling broadly inside, perhaps laughing out loud, at the thought of my preppy classmates trying to make it alive through even one day in the 'hood. J.B. said:

You see, you can catch up with their book learning, but can they catch up to your street smarts? How? They will not grasp what life is like for poor people in the inner city unless someone like you teaches them the lessons you learned the hard way. So go back and teach them. What you offer Yale is as important as what Yale offers you.

That morning walk and conversation with J.B. turned my life around. It was so wholly improbable that a top executive of a major international company would take a long walk with me. Why did Catie, then her dad, and the rest of the family go out of their way to help me?

I returned to Yale after Thanksgiving determined to make my voice speak for my family and the people of my background. It hit me full force that I needed to stick up for the guardian angels of my boyhood—devoted parents, teachers, playground leaders, and church folk—who did what they could to give me a second chance. To make a long story short, I brought my grades to respectable marks during my freshman year and then proceeded to excel for my remaining years.

But more to the point, I took the lesson of that Stevens family Thanksgiving to another level. I realized how few inner-city kids would ever learn the lesson J.B. taught me: What we have to teach the powerful is as important as anything they have to teach us.⁴

NOTES

1 347 U.S. 483 (1954).

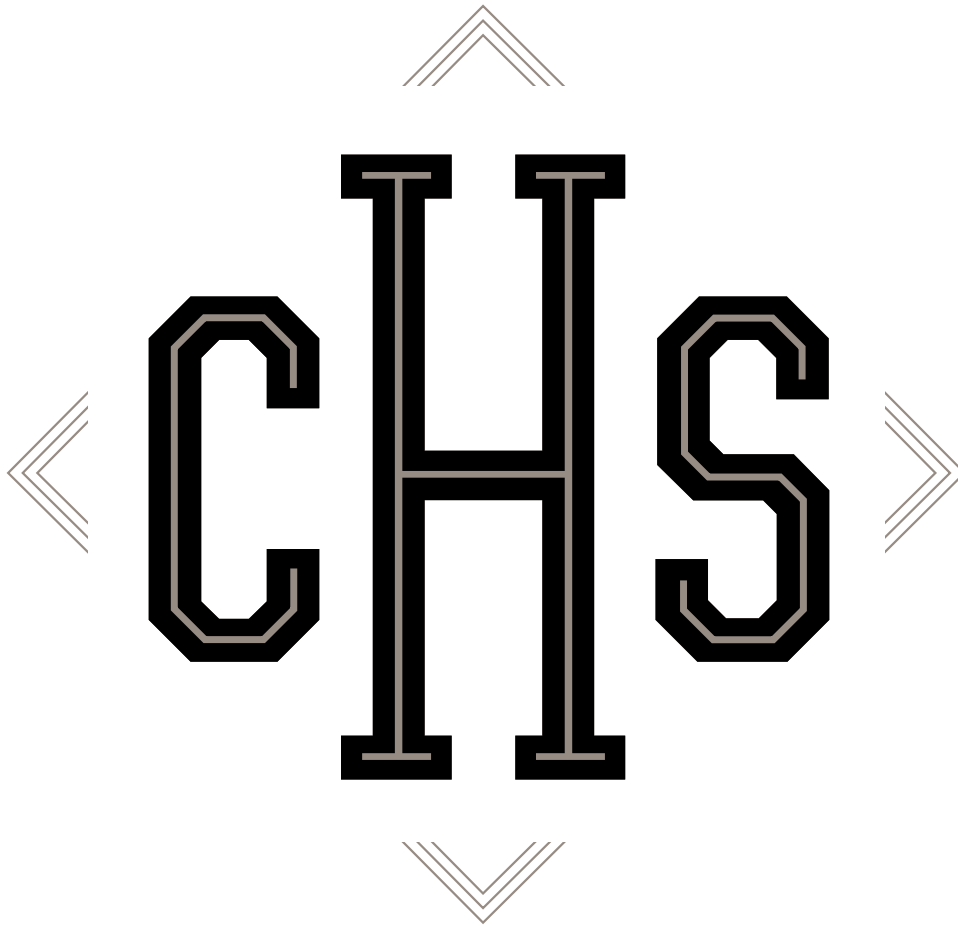
2 See Lea Ybarra, *Vietnam Veterans: Chicanos Recall the War* (2004). ("Mexican Americans accounted for approximately 20 percent of U.S. casualties in Vietnam, although they made up only 10 percent of this country's population at the time.")

3 For a second, I thought she pronounced the name as "jail," producing flashbacks and freaking me out.

4 I have taken J.B.'s wisdom to heart ever since. At Yale I started a service organization that called upon fellow Yalies to hang around poor Puerto Rican children living in New Haven so each side could communicate in new ways with the other. During law school at UC Berkeley, I cofounded the Minority Pre-Law Coalition on the undergraduate campus, which highlighted the exceptional leadership and scholastic abilities of students of color and grew to 300 college students, mostly of color, but including college classmates from all backgrounds. During my years as a law professor, I have applied J.B.'s teaching to many community struggles for freedom and justice.

C A R L S . H A W K I N S

April 3, 1926– April 25, 2010



Carl S. Hawkins grew up in Provo,
Utah, attending Maeser Elementary School,
Farrer Junior High, and Provo High
School. He served as a radio operator in the
Army Air Corps in World War II,
stationed in the Pacific theater of operations.
He married Nelma Jean Jones
after the war. > > >



PHOTOGRAPH BY JOHN SNYDER



BYU Law School faculty meeting, St. Francis School, December 1974. Clockwise, from left: Rex E. Lee, Carl Hawkins, Monroe McKay, Dale Kimball, Jim Backman, Ed Kimball, H. Reese Hansen, Bruce Hafen, Jerry Williams, Clif Fleming.



Hawkins attended Brigham Young University as a political science major, earning a BA degree in 1948. He earned an LLB degree with honors at Northwestern University Law School in 1951, where he was elected to the Order of the Coif and served as editor in chief of the *Illinois Law Review*, now the *Northwestern University Law Review*. He also received the Wigmore Award for reflecting outstanding credit on his law school and did postgraduate work in 1951 as the Harry A. Bigelow Teaching Fellow at

the University of Chicago Law School, working in their legal drafting program.

In 1951–1952 Hawkins was an associate in the firm of Wilkinson, Boyden & Cragun, in Washington, D.C., and in 1952–1953 was law clerk to Chief Justice Fred M. Vinson of the U.S. Supreme Court. From 1953 to 1957 he was a partner in Wilkinson, Cragun, Barker & Hawkins in Washington. He was instrumental in the firm’s successful representation of several Indian tribes in claims against the U.S. government. In

1957 Hawkins accepted a position as a professor at the University of Michigan Law School, where he was a popular and dedicated teacher and scholar. He also contributed to the creation of many bills before the Michigan legislature and served as executive secretary of the Michigan Law Revision Commission, chair of the Civil Procedure Committee of the Michigan State Bar Association, and reporter of the Michigan Supreme Court Committee on Standard Jury Instructions. He was coau-



Dinner at the Riverside Country Club, September 1975. Left to right: Marion G. Romney, Ida Romney, Spencer W. Kimball, Camilla Kimball, Chief Justice Warren Burger, Nelma Hawkins, Carl Hawkins, acting dean of the Law School.



*Meeting
of the board
of visitors,
March 1976.
Lynn Richards
speaking.*



thor of a six-volume work on rules of procedure for Michigan courts and also coauthor of two torts casebooks.

In 1973 Hawkins accepted a position as one of the founding professors of J. Reuben Clark Law School at Brigham Young University, where he taught until his retirement in 1991. The importance of Hawkins' faculty appointment to the Law School was predicted by Dean Willard Pedrick of the Arizona State University College of Law, who told then BYU Law School Dean Rex

E. Lee during the initial faculty search that Hawkins' presence on the faculty would give the new law school "instant credibility." When Hawkins called then BYU President Dallin H. Oaks in 1972 to accept his appointment at the Law School, as then Professor Bruce C. Hafen recalled, President Oaks told his colleagues, "I guess the Lord really wants this law school . . . to be a good one. Carl's coming." In addition to his teaching and research responsibilities, Hawkins served as acting dean and dean of BYU Law School

from 1975 to 1977 and from 1981 to 1985. During his tenure at BYU he also had visiting faculty appointments at the law schools of the University of Georgia, Pepperdine University, Washburn University, and the University of New Mexico. He took a two-year leave of absence to serve as executive director of Florida's Academic Task Force for Review of Insurance and Tort Systems, which produced legislation for comprehensive medical malpractice and liability insurance reform in that state.



Faculty, administration, and previous three deans of BYU Law School at the appointment of H. Reese Hansen as the new dean, March 1990. Front row, left to right: Deans Rex E. Lee, Bruce C. Hafen, Carl S. Hawkins, and H. Reese Hansen.



Throughout his career Hawkins served as an advisor and mentor to many colleagues and students, spending many hours in public service. He was a commissioner and vice chair of Utah's Alcoholic Beverage Control Commission and chair of the Attorney General's Utah Administrative Law Advisory Committee, which drafted the comprehensive Administrative Procedure Act in 1987. At the national level he was a charter member of the National Conference of Bar Examiners' Multi-State Essay Examination Drafting Committee. He also served on

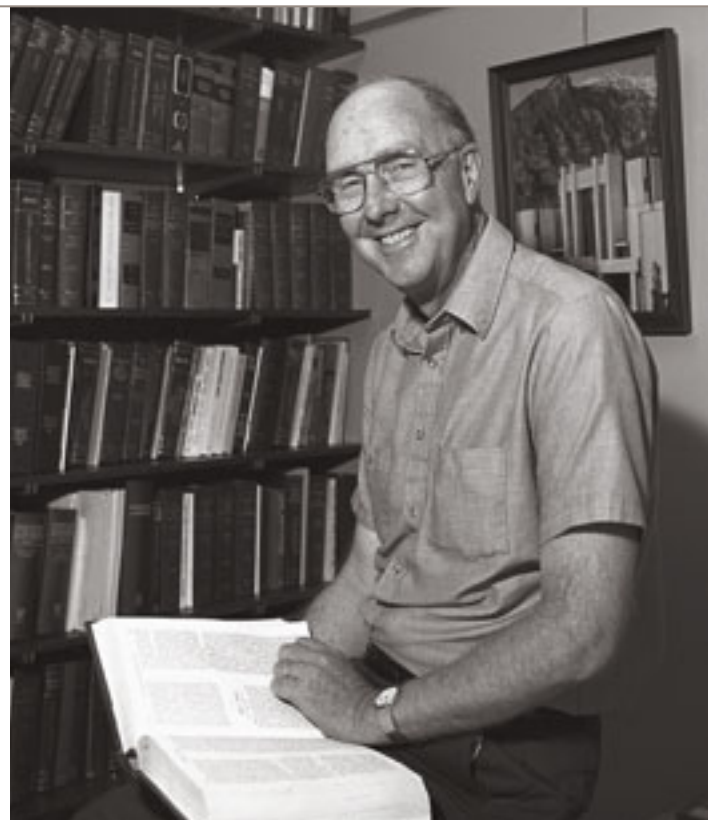
the Association of American Law Schools' Accreditation Committee. Hawkins was appointed by President Jimmy Carter to the Judge Nominating Commission of the U.S. Court of Appeals for the 10th Circuit. While at Michigan and BYU, he published widely in professional journals. He also contributed to the *Encyclopedia of Mormonism* and in 1999 wrote the Law School history book *The Founding of the J. Reuben Clark Law School*.

Hawkins held many positions in The Church of Jesus Christ of Latter-day

Saints, including bishop of the Ann Arbor (Michigan) Ward, counselor to President George Romney of the Detroit Michigan Stake, and president of the Detroit and Dearborn, Michigan, stakes. He served in leadership positions in BYU student stakes and was a member of the Church's evaluation correlation committee for more than eight years. In recent years Hawkins served as a stake coordinator for the name extraction program and submitted thousands of names through the volunteer FamilySearch indexing program.



Carl Hawkins speaking at the announcement of the Guy Anderson Endowed Chair at J. Reuben Clark Law School, April 19, 1978.



Dean Carl Hawkins in his office, August 6, 1991. Photo by Mark Philbrick.

Carl Hawkins, Teacher

BY MONTE STEWART, '76

Two phrases suggest the essence of Carl Hawkins as a teacher.

CALM MASTERY

The first one is “calm mastery.”

The “calm” was reflected in Carl’s even, unflappable ways throughout the class period. He was patient in awaiting student responses and then heard those responses out before following with another question or comment quietly put. This calm was so characteristic of him that the one deviation I ever saw is still vivid in memory. One day in the Federal Courts class, he put a question to a student. In the response, the ratio of bold bluff over utter lack of preparation was too great for even Professor Hawkins to endure calmly. It wasn’t that he raised his voice; he didn’t. And it wasn’t that he vented scorn or sarcasm; he didn’t do that either. But there was definitely an edge to his voice that conveyed a message beyond the few words he spoke; that message was a mixture of rebuke for not treating seriously what merits seriousness and of no tolerance for such a performance. On reflection, that message’s power (and it was powerful) surely derived in large measure from his otherwise constant calm in the classroom setting.

The “mastery” was there, too: a very large, unquestionable, virtually tangible reality. In Torts class, he had literally written the book (not to mention volumes of other stuff on the subject). In Federal Courts class, he used what he calmly announced to be the best law school textbook of all time, Hart

& Wechsler’s *The Federal Courts and the Federal System*, and although he had not written that book, he had mastered it. His experience in teaching these subjects was so vast and deep that no classroom exchange ever caught him off balance. He handled every pitch with, well, complete mastery, so much so that his classroom performance made me think of Ted Williams’ boast that he could always see and react to the rotation on a pitched ball, whether fastball, curve, or slider. Carl Hawkins was a living, breathing, walking embodiment of the old adage that a lawyer’s job is to know the law. And what that embodiment taught may well have been the most valuable fruit any student ever gathered in his classroom. By what he was, Carl taught what mastery means in the life of a striving professional.

PLAIN HUMILITY

The second phrase comes from the Book of Mormon: “plain humility” (Ether 12:39). To return to the notion of a ratio—this time, of achievement over air of superiority—Carl’s ratio is unmatched, with its huge numerator and *de minimis* denominator. Because of Carl’s plain humility, the students were not nearly as conscious of his achievements as they were of the achievements of other faculty members, although the faculty was certainly conscious of them. Rex Lee spoke truly when he said, as he often did, that Carl Hawkins’ decision to join the charter faculty was—after the Church’s commitment of adequate resources to create a first-rate law school—the most important step toward the school’s success. That is truth exactly because of Professor

Hawkins’ vast achievements in the world of legal scholarship while at the University of Michigan. That vast achievement (and to say this is not to diminish the contribution of the other charter members of the faculty) was, to again quote Rex, an “instant credibility builder” for the school. And yet, plain humility. What a remarkable quality this was in Carl Hawkins, and because of it, he was a better, more effective classroom teacher. In Carl Hawkins’ classroom, ego never competed with or got in the way of pure teaching.

INFLUENCE FOR GOOD

I suggest that Carl Hawkins’ finest moment as a BYU Law School teacher actually came some six months before the Law School opened its doors and while he was, technically anyway, still a University of Michigan law professor. February 1973 saw a quintessential Rex Lee promotional, recruiting, and fund-raising event. It occurred one evening in a room at the Wilkinson Center, and the turnout was impressive: prospective students, many family members, lawyers from a number of communities, a few members of the emerging charter faculty, and others with some interest in the new Law School. After Rex with his usual *savoir faire* led us through the preliminaries, he turned the remainder of the time over to Carl Hawkins.

Carl spoke calmly, in a conversational tone. He spoke a bit about his recently made decision to leave Michigan and help start the new Law School at BYU, yet the focus was never on himself but rather on the great enterprise of the new Law School. He spoke of find-

ing himself on a plane flight with a person he never named but whom we came to understand, through just a few of Carl’s words, to be one of the strong, preeminent “pillars” of the American legal profession. Their conversation turned to the new Law School at BYU (as Carl spoke, it was as if we were all standing a few feet away and listening in on them), and the pillar in deep seriousness said to Carl that years hence the founding of that school would rank as one of most important milestones in the progress of the profession.

To repeat, Carl’s tone throughout was calm and conversational. Yet his words still qualify, more than 37 years later, as the most effective advocacy I have ever witnessed. My father was present. His was the life of a cowboy, a construction worker, a businessman. “Two-fisted” was an adjective that he liked, and it applied to him. He was not easily impressed. As we walked out, he turned to me and said with utter conviction: “That man can be my advocate any time, any day, no matter what kind of fix I’m in.”

That evening, calm mastery and plain humility made for one of the great teaching moments of my life and, I suspect, of the lives of many others present. We were taught. We were edified. Our eyes were opened to see and understand what before we had not really seen nor understood. And the teaching moved us to action; many present that evening committed themselves to the great creative endeavor that was the new Law School. I express my heartfelt thanks to a man whose calm mastery and plain humility made him a teacher to influence the lives of so many of us for good.

KEYS TO BEING HAPPY SUCCESSFUL AND FULFILLED

BY JUDGE J. CLIFFORD WALLACE >> PHOTOGRAPHY BY BRADLEY SLADE

I WANT FIRST TO PAY TRIBUTE TO THE LAW SCHOOL'S NEW DEAN, PROFESSOR JAMES RASBAND. I HAVE KNOWN JIM FOR A NUMBER OF YEARS. HE WAS ONE OF MY FINEST LAW CLERKS AND HAS TURNED OUT TO BE AN OUTSTANDING PROFESSOR. I PREDICT HE WILL ALSO BECOME AN OUTSTANDING DEAN. I APPRECIATE HIS INVITATION TO ADDRESS YOU TODAY.

>> THIRTY-EIGHT YEARS AGO, AT THE 1992 BRIGHAM YOUNG UNIVERSITY MAIN CAMPUS COMMENCEMENT, I SPOKE ON THE TOPIC OF MEDIOCRITY. MY CONCERN WAS THAT THERE WERE TOO MANY WHO WERE WILLING TO WORK JUST ENOUGH TO GET BY AND THE RESULT WAS IMMEDIATE MEDIOCRITY IN THEIR PRODUCTION. BECAUSE THAT ATTITUDE WAS SPREADING SO RAPIDLY, I TITLED MY REMARKS "THE CANCER OF MEDIOCRITY." I WISH I COULD SAY THAT, LIKE OTHER CANCERS, PROGRESS HAS BEEN MADE TO OVERCOME THIS MALADY. UNFORTUNATELY, I CANNOT. IT IS STILL A PROBLEM. AND, AS YOU MIGHT EXPECT, IT IS FREQUENTLY A PROBLEM WITHIN THE PRACTICE OF LAW.

>> TOO OFTEN, LAWYERS ARE SATISFIED WITH A POOR WORK PRODUCT—JUST GET THE JOB DONE AND GO ON TO OTHER THINGS. TOO MANY BRIEFS ARE INADEQUATELY RESEARCHED AND POORLY WRITTEN. TOO MANY LAWYERS COME TO COURT UNPREPARED, OR AT LEAST NOT PREPARED TO THE EXTENT THEY SHOULD BE.



J. Clifford Wallace was appointed to the Ninth Circuit Court of Appeals in 1972, serving as chief judge from 1991 to 1996. He assumed senior status in 1996 but continues to hear cases in the Ninth Circuit and spends time as a visiting judge on other federal appellate courts. The American Judicature Society honored Judge Wallace with its 24th Annual Edward J. Devitt Distinguished Service to Justice Award. The award is one recognizing “significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole” and was formally presented to Judge Wallace by U.S. Supreme Court Associate Justice Anthony Kennedy in 2006.

When you take on the responsibility of representing clients, you commit yourself to doing your best. If you are unwilling to make this commitment and carry it out, you are just another lawyer-victim of the cancer of mediocrity.

Sometimes lawyers decide how much work they will do based on the fee they believe they will collect. This is counterproductive and, in my view, morally wrong. You have a commitment that must be followed to do your best regardless of the fee.

That brings me to the point I wish to make, which I hope you will remember. The practice of law is a practice of best service. I recall at a general conference of our Church I heard a speaker say: “I was a lawyer until I repented.” I was sitting in the section reserved for the regional representatives of the Twelve next to another lawyer. He responded, “I am glad I do not practice law that way.” I agreed with him.

In the practice of law, we provide a service for clients to accomplish something they cannot do for themselves. It is an honorable profession; thus, there should be no cause for repentance.

No discussion about the practice of law would be complete without discussing honesty and fidelity. Honesty still is the best policy. So why are there so many lawyer jokes? I hear very few jokes about doctors, dentists, plumbers, or carpenters. But lawyer jokes abound. How much of this comedy has truth behind it?

When I completed law school at the University of California at Berkeley, I was hired by a major firm in San Diego as a new associate. The partner in charge of the litigation department was James Archer, a tough litigator, and one who never stepped over the line. I learned by carrying his briefcase and attending court with him. He stressed, “No case is worth winning by being less than honest.”

During World War II, Consolidated Aircraft Company in San Diego produced the B-24, the medium bomber used in the Pacific. Because the facility was a possible target, camouflage had been stretched over the building and the road next to it. On my way to the beach, the bus would travel under

this camouflage and all of a sudden it would be dark. However, on the side of the building, painted in large white letters, you could observe a statement, which I still remember: “Nothing short of right is right.” That became extremely important to me as I practiced law. It was my touchstone.

You fairly quickly learn which lawyers you can trust and which you cannot. You establish a reputation by how you practice. Those who consistently do not misstate the holding of a case for their cause or do not miscite the record from which they are arguing stand out in the minds of observing lawyers and judges. There are other lawyers about whom you learn just the opposite. If they tell you that it is raining, you go to the window to check. You simply cannot trust them.

The practice of law takes time and effort. It is no secret that only the industrious become outstanding lawyers. Good law practice is not for those who are not industrious or are simply wimps. You must be prepared to serve and to serve well.

With all of the above, which is the appropriate way to practice law, you necessarily will also face conflicts in your life because you have responsibilities in addition to the high bar you place before yourself as a lawyer. Most and maybe all of you will enter into marriage and have family responsibilities. They too can be demanding and time-consuming.

Many of you have and most of you will enter into the temples of The Church of Jesus Christ of Latter-day Saints to receive sacred ordinances. You will there take upon yourself commitments, such as dedication of your time and talents. The sealing ordinance of the temple named “This Order of the Priesthood” provides an additional commitment and responsibility.

You will have calls to Church positions. If you do not fulfill them properly, unfortunate results may occur for those whom you are called to serve but failed to do so.

And then there is the legal practice with its demands. As you can see, already it is too much—too much—too much. How do you balance all of these important responsibilities that appear to be more than any human being can master?

◆◆◆
This address was presented to the J. Reuben Clark Law School graduating class of 2010 in convocation exercises on April 23, 2010.

◆◆◆





ELDER RICHARDS SAID,

“YOUR FIRST RESPONSIBILITY IS TO YOUR FAMILY,

THE SECOND IS TO THE CHURCH, AND IF YOU HAVE

ANY TIME LEFT OVER, YOU CAN EARN A LIVING.”

I started the practice of law in 1955 (55 years ago). Two years later I was married. I was serving in a Young Men stake presidency of the Church and seemed to be handling my life fairly well—it appeared to be in balance.

Then I was called as second counselor in a stake presidency. I was 29 years old, an expecting father, and trying as a young associate to qualify for partnership.

LeGrand Richards of the Quorum of the Twelve was the presiding authority. He noticed my concern and asked me if I had any questions. I said I had just one. I outlined my commitment to my family, to my profession, and now to this time-consuming call in the Church. Elder Richards responded by winking at me and said, “Your first responsibility is to your family, the second is to the Church, and if you have any time left over, you can earn a living. This statement, as I

understood it, was not an indication that I was not to be successful as a lawyer. To the contrary, he expected that I would be a very successful lawyer. He was just stating priorities: family, Church, profession. It was up to me to grow to accomplish all three.

This harkens back to what I believe to be the excellent advice we all received from Elder Dallin Oaks of the Quorum of the Twelve in his remarkable discussion at the October 2007 general conference of the Church on “Good, Better, Best.” It is a scale we all need to learn in determining what we will do with our lives. Taking control of our lives, we move up from good to better to best use of our time and talents.

President Henry D. Moyle gave me important advice. He stated that I would not fail in the practice of law by accepting what I am called to do in the Church. His view was that there is a law of compensation from the

Lord that occurs if you are faithful to your primary responsibilities.

Four years after I was set apart as a counselor, I became the president of the stake and had to learn more about priorities; the choices of good, better, and best; and to rely on faith to accomplish all that I had before me. My lesson came from then-Elder Spencer W. Kimball, later the president of the Church. He was the presiding officer when I was called as a stake president. As I drove him back to the airport after the stake conference, he told me that we all have the same amount of time each day, that time can be analogized to a bucket. Everybody has the same-size bucket. “If you crowd all of the rocks you can into the bucket,” said Elder Kimball, “then you are using all of your time. Is that correct?” he asked. I responded, “Yes,” and he told me I was wrong, because you can pound sand in between the rocks.

Then he asked, "Will you then use all your time?" I thought so, but misunderstood that the task was over. He explained that the successful person learns that you can put water between the grains of sand. Clearly, he was advising me about the proper use of my time, that I had to become a master of my time so that I could accomplish all my major responsibilities: family, Church, profession. It is still good advice and I still follow it. You might want to also.

As you can tell, I believe that law is important. It is a major part of my life, and I have grown to love the law. But it is not the most important thing to me. Indeed, there probably will be no need for lawyers in the next life. So each of us has to keep our eyes open to the big picture here and hereafter. My experience tells me that if you are willing to use all of your time wisely and focus on the three priorities, you can be successful, happy, and fulfilled.

Now, I realize that currently the climate is not encouraging for a starting lawyer. But I have always believed there is room at the top. You have had a good legal education. Some 14 million people have contributed to your tuition and expenses through tithing funds freely given to the Church. Those tithe payers need to be paid back. How are you going to do that? I suggest you pay them back by fulfilling their expectations, by your becoming an honest, hardworking, quality lawyer who sets a good example in all you do and accepts responsibility in your family and your church.

At the end of your professional life, you will look back and you will then decide whether you have been successful in the way I have described today. I recall some years ago I was asked to present a lecture at Brigham Young University as part of the Last Lecture Series. The idea was, if it were my last lecture in this life, what would I say? My remarks were entitled "Looking at Life Through a Rearview Mirror." How do you want to be remembered professionally?

Potter Stewart, now deceased, was a member of the United States Supreme Court. At the time of his retirement, he was asked the question "How do you want to be remembered?" His response was meaningful. He said he wanted to be remembered "as a good lawyer who did his best." I recommend it to you.



How Shall This Be?



A MESSAGE FROM THE CHRISTMAS STORY

I am impressed with law students. You are smart and hardworking and ambitious. Some of you have your lives pretty well mapped out: you know where you will be working and living and how much you will be making in a year or two. || BY JANE H. WISE



This talk was given as part of the Spirit in the Law series at J. Reuben Clark Law School, Brigham Young University, on December 3, 2003.

Others of you may not have planned that far ahead, but the fact you are in law school shows you planned and prepared to get where you are today, and you probably feel like you are in control of your life. If you feel that way right now, you won't after a careful look at the Christmas story. As the Apostle Paul wrote, "It is a fearful thing to fall into the hands of the living God."¹

Luke tells us the angel Gabriel came to a virgin named Mary and said to her, "Hail, thou that art highly favoured, the Lord is with thee: blessed art thou among women."² But she was "troubled"³ by his words and pondered what sort of greeting this might be. This was the beginning of God's interruption in Mary's life, and she was troubled. She was a young woman with an ordinary dream of marrying and having children with Joseph. Their families had signed a betrothal contract. But at the commencing of this miracle, we learn that being troubled signals the beginning of God's intrusion into an otherwise ordinary life.

Think of the times when something unanticipated and out of the ordinary arises, something that troubles you. Perhaps here at school a professor (pick the one that would trouble you the most) stops you to say she needs to see you in her office at 5:00 p.m. to talk about something pretty important. You paste a smile on your face, but you are troubled. A phone rings in the middle of the night, waking you and almost simultaneously creating knots in your stomach. A pregnancy test is positive, and then the nausea begins. At first we may be troubled or perplexed or even excited by these signals. What does it mean? The comfortable status quo in our lives is about to be changed. The thin veneer of the ordinary has just been pierced, and now we feel out of control.

"Fear not, Mary," the angel said, "for thou hast found favour with God. And, behold, thou shalt conceive in thy womb, and bring forth a son, and shalt call his name Jesus."⁴ Then Mary said, "How shall this be, seeing I know not a man?"⁵ She is no longer troubled; she is now probably terrified.

"How shall this be?" Have you ever said that? I have said that. People say those words on the day their well-con-

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structed and planned-out life is suddenly invaded by something too great for them to control. Things happen that we don't choose: a job is lost; a move must be made and then another move; a loved one dies; notice comes that a biopsy must be performed. On those nights we lie in bed staring at the ceiling, asking, "How shall this be?"

The ordinary, comfortable, even safe life has been interrupted. Things are not what were hoped for; they are not what was planned for. God has interrupted, pushing aside the ordinary to conceive something out of the ordinary. We may not understand it, and we may not be able to manage it. What can we do? We can receive it, as frightening as that sounds. And if we read the Christmas story right, this out-of-the-ordinary interruption will prove more valuable than anything we could ever plan.

The angel responds to Mary's question by telling her that the Holy Ghost through "the power of the Highest"⁶ has conceived this child. It is then that Mary makes her great declaration of faith: "Behold the handmaid of the Lord; be it unto me according to thy word."⁷

This might be the hardest thing of all to do with God's interruptions—choosing to embrace them. We move from being troubled to being terrified to choosing to embrace the interruption as a gift from God.

Now here is a caveat: We are looking at the Christmas story in which angels heralded each of God's interruptions—*God's* interruptions. But not every interruption in life is conceived by God. Tragic interruptions in life come about through bad choices—ours and others'—or simply from living in this fallen world where disease and accidents are prevalent. But we do know that no interruption is ever greater than God's, and He can inject hope in the midst of every tragic loss. It's up to us to choose like Mary chose, to embrace the interruption and come to see it as the tender birth of a miracle. Another truth we learn from this story is that "with God nothing shall be impossible."⁸

Lest you think you are out of this crucible because the interruption didn't happen to you: the choice to embrace the inter-

ruption has to be made, not only by those whose lives are interrupted like Mary's but by everyone connected to her.

Mary was engaged to Joseph. There were three stages to the process of betrothal. First came the legally binding contract that was signed by the families as well as by outside witnesses. Money and gifts were exchanged, and an official announcement was made. The second stage was the period of betrothal that lasted one year and helped assure the groom that his affianced wasn't pregnant. Because the relationship had already been made legally binding, during this year the man and woman were considered husband and wife even though they remained separated. These arrangements could only be terminated by divorce. But what everyone hoped, of course, was that the couple would make it to the third stage, when there would be a wedding, and the marriage would finally be consummated after the groom took the bride home.

It was during this yearlong period of betrothal that Mary had to get word to Joseph that she was pregnant. Can you imagine how difficult that conversation was? Did she tell him herself? Did she try to explain the part about the Holy Ghost conceiving this child in her womb and how she was favored of the Lord? Was Joseph scandalized? We don't know. All we know is that Joseph was "a just man"⁹ and didn't want to expose Mary to public disgrace. So he planned to simply dissolve the marriage quietly and leave this disappointment. But he must have been troubled. So when Mary's life was interrupted by God, Joseph's life was not the same, and the easiest thing to do was to walk away from the interruption.

Some of us here today are like Mary, and some are like Joseph. In the year ahead, some of you, like Mary, will directly experience an interruption from God, and others of you, like Joseph, will not be the same as a result of an interruption to someone else. Maybe it will be your parent or spouse or child or close friend whose life is interrupted. Maybe the news you hear will be something awful like a disease, a lost job, divorce, or even the death of someone you need in your life. When you discover this is happening to someone you love, you first

do everything you can do to prevent it. But the time will come when you discover that you can't change it. Then, like Joseph, you face a great choice. Because you are disappointed or hurt, even if you are "a just" person, you will be tempted to walk away quietly from this person whose life is out of control.

According to Matthew's Gospel, Joseph had to listen to an angel himself to realize that he couldn't put distance between himself and Mary's interrupted life:

But while he thought on these things, behold, the angel of the Lord appeared unto him in a dream, saying, Joseph, thou son of David, fear not to take unto thee Mary thy wife: for that which is conceived in her is of the Holy Ghost.¹⁰

He was to take her in, embrace her interrupted life, and keep her as his wife. And that wasn't the end of it. You know, when a baby is born shortly after a wedding, everyone starts counting. People probably assumed that since Joseph didn't "put her away,"¹¹ the baby was his. That means that Joseph was called to share in the scandal. But it didn't stop there. Joseph probably lived with his parents. So in bringing the pregnant Mary to his home, Joseph had some hard conversations of his own. And then his family had to explain it to the extended family and friends. Thus the interruption traveled from Mary to Joseph to the extended family to the whole village of Nazareth.

As you come to accept God's interruptions in the lives of those you love, it is a small step to see how related you are to the interruptions of those you don't even know. The violence in the Middle East and Iraq is not unrelated to you. Neither is the suffering of those dying of AIDS in Africa or of the homeless mothers who spent last night in cars with their children. The advent of the Savior means we can't distance ourselves from any of these scandals. Like Joseph, we will hear the angels of God telling us to take in these great scandals of the world, bring them home, pray for their needs, and give generously to their relief. Once a Savior is born in the world, you can't cradle Him to your breast without discovering that He is dragging the whole world into your heart as well.

IT'S UP TO US
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"WITH GOD
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Reading Mary and child

Kentucky

So let us not get too sentimental about what is happening in the manger at our Christmas celebrations. The reason Christ was born among us was to change the world. The reason His arrival has interrupted your life is to call you to His work so that you may participate in building up the kingdom of God by serving those He would have served. His mission is our mission:

*The Lord hath anointed me to preach good tidings unto the meek; he hath sent me to bind up the brokenhearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound.*¹²

Here's someone else from the Christmas story to show how the timing of God's interruptions leaves something to be desired. Elisabeth, Mary's cousin, was not a young woman when she conceived a child. Try to imagine what her dream had been—to have a child. It's not the pregnancy so much as the baby that is the dream: the holding and nursing and nuzzling—the intimacy in mothering a child. And what happened to that dream? It was entirely barren—for years. Zacharias most likely died in John's infancy, so there was no father; Jesus later made reference to a Zacharias, whom scribes and Pharisees "slew between the temple and the altar."¹³ We are told that John "grew [up] in the deserts,"¹⁴ which doesn't sound like Elisabeth's comfortable home in Hebron; she might have died early on as well, entrusting John to someone else. So here is Elisabeth when her life is interrupted by God: after years and years of praying for a child, after becoming used to not having a child, and after getting to the age when giving birth to a child is not a good idea, she finds herself pregnant.

I had my first child when I was 31 and my last child when I was almost 40. I have four children and loved that time when they were little, and I would have had more children, but it didn't happen. However, I clung to my maternity clothes, and I looked with envy on every pregnant woman I saw. That is, until I was approaching 50 and caught myself watching a woman, heavy with child, walk down the stairs in the moot courtroom. She was very large and looked very uncomfortable, and I found myself thinking, "Boy! Am I glad I'm not pregnant!" I realized that having a baby at

that point would really throw a wrench into my life and completely dishevel my precious status quo. I'm glad there's a time and season for most things—but not in this story.

Contrast Elisabeth to Mary, a young woman. Mary too dreamed of motherhood someday in the future, when it would be appropriate. But not before she was married. So we meet two women who are pregnant. One of them is old to be a mother, and the other is young. But both are in the hands of God and have had something earth-shattering conceived in their lives.

"And Mary arose in those days, and went into the hill country with haste, into a city of Juda; . . . and saluted Elisabeth,"¹⁵ who "hath . . . conceived a son in her old age."¹⁶ The first believers brought together by the presence of Christ were two pregnant women. Isn't it interesting that when God intervenes with the single-most influential breakthrough in history that the human witnesses are two women who are pregnant?

Sometimes, as with Elisabeth, God seems to move too slowly. Sometimes, as with Mary, He seems to move too quickly. Maybe you feel a kinship with Elisabeth. You've been praying for a long time for something to happen. You think now that it may never happen. Obviously, you can't make it happen, because if you could have, you would have. Clearly, you are not in control. Or maybe you feel closer to Mary, in that your life is completely disheveled this year. God has conceived something in your life that you didn't ask for, that doesn't make sense, and that frightens and confuses you. Clearly, you are not in control either.

When God interrupts our lives, it is to conceive something that will bring us a new kind of life—ironically, a life King Benjamin described as becoming like "a child, submissive, meek, humble, patient, full of love, willing to submit to all things which the Lord seeth fit to inflict upon him, even as a child doth submit to his father."¹⁷

Pregnancy is a great example of having to submit to the forces creating the baby. The mother is not the architect and not in charge. I consider myself a good negotiator. I decided to have my first child a few weeks early, like my mother did, and planned and organized for it. It didn't happen. The due date came and went, but nothing happened. I began thinking what I thought

were powerful and influencing thoughts and taking long walks and climbing up lots of stairs. Nothing happened. I finally ended up being induced and having a C-section. My next baby came a week early, almost in the middle of a dinner party. We must be willing to submit.

That is exactly what can happen when a miracle begins to develop with any of us through God's interruptions. Just as cells miraculously divide to create organs, flesh, and bones, so does the Spirit of God work within to create something new. If we are willing to submit in patience and humility, it will be well with us.

The new life from this interruption may give us a mission or calling that scares us. It may give us gifts, passions, or a dream that we never expected to have. It may take loved ones away that we would rather keep or give us new loved ones we would rather not have. Don't be surprised if you don't understand it. We are not in charge.

So, central to the Christmas message is the discovery that all our lives are interrupted by the birth of Jesus Christ and that God has conceived something terrible and wonderful in our lives.

ART CREDITS

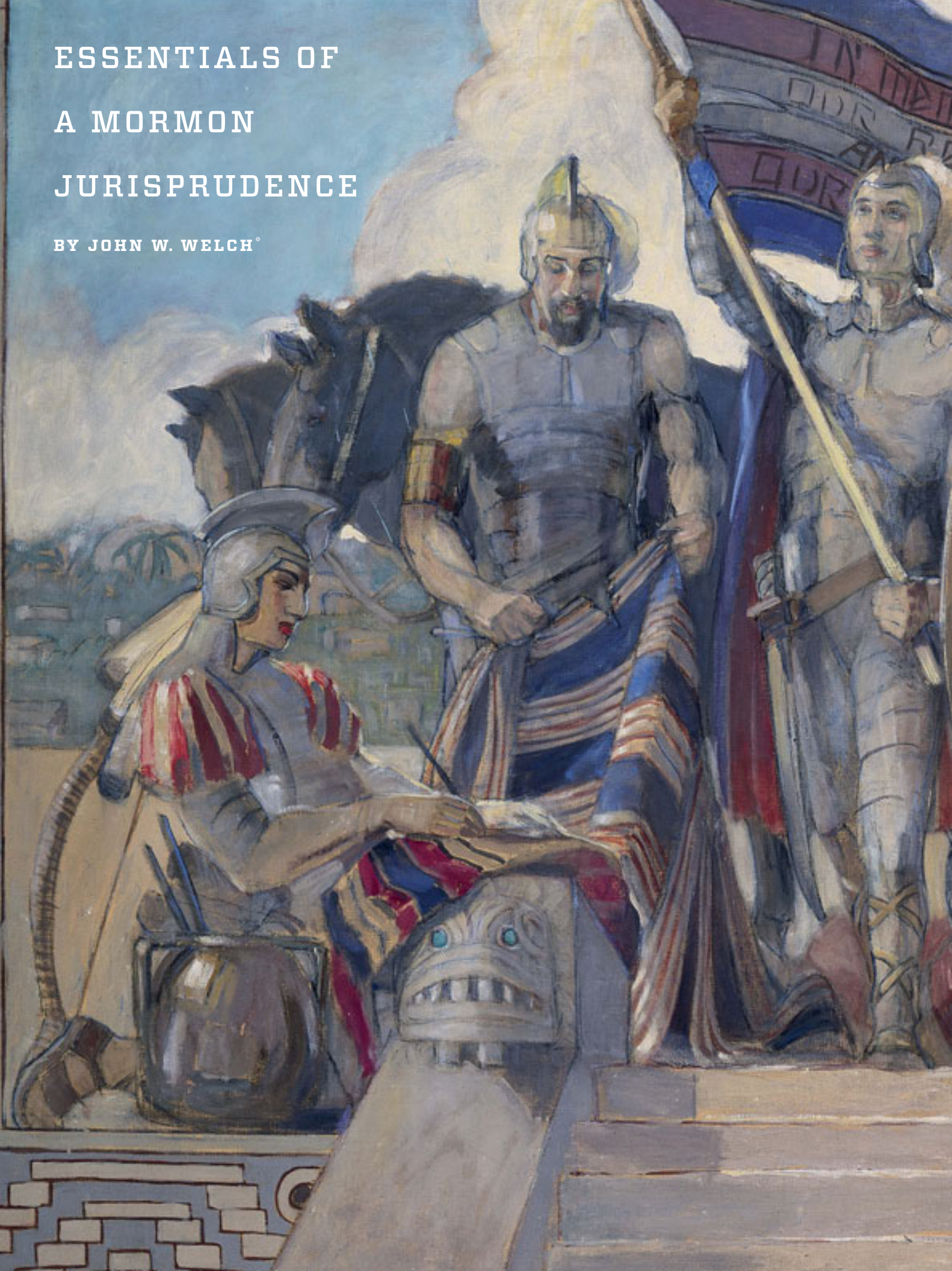
Pgs. 20–21: *Nativity*, Brian Kershnik; pgs. 22–23: crèches courtesy of Walter Whipple, images courtesy of Brigham Young University Museum of Art.; pg. 24: *Singing Madonna and Child*, Brian Kershnik.

NOTES

- 1 Hebrews 10:31.
- 2 Luke 1:28.
- 3 Luke 1:29.
- 4 Luke 1:30–31.
- 5 Luke 1:34.
- 6 Luke 1:35.
- 7 Luke 1:38.
- 8 Luke 1:37.
- 9 Matthew 1:19.
- 10 Matthew 1:20.
- 11 Matthew 1:19.
- 12 Isaiah 61:1.
- 13 Matthew 23:35.
- 14 Luke 1:80.
- 15 Luke 1:39–40.
- 16 Luke 1:36.
- 17 Mosiah 3:19.

ESSENTIALS OF
A MORMON
JURISPRUDENCE

BY JOHN W. WELCH*



Many lawyers and law students are interested in the intersection of their religious faith and values with their responsibilities and duties in the legal profession. The mere fact that many people intuitively sense a connection between law and religion is prima facie evidence that these domains are at least relevant to each other, if not fundamentally linked.



In this article I hope to make a pioneering contribution to the intellectual progress of my own religious tradition, Mormonism. Recent political events have amplified the fact that to many Americans, Mormonism is still seen today as a bizarre religion, or worse, a “cult with a heretical understanding of Scripture and doctrine.”¹ This article does not seek to answer such criticisms² or to explain Mormon tenets,³ as this is readily available elsewhere. Instead, this article explores a broad jurisprudential perspective of the relatively young religion, which is very rich in potential and now emerging more often on national and international scenes, asking: What would a Mormon jurisprudence look like? How would one recognize a Mormon jurisprudence? What would distinguish it from other jurisprudential approaches?

When one goes looking for a Mormon jurisprudence, one is looking for more than a description of Mormon historical experiences with the law (Joseph Smith’s numerous appearances in court,⁴ antipolygamy legislation,⁵ J. Reuben Clark’s service in the State Department,⁶ comments on the Equal Rights Amendment,⁷ abortion, same-sex marriage,⁸ or the United Nations Doha Declaration on the Family⁹) and more than an articulation of what Joseph Smith meant when he said that the Constitution of the United States was an inspired document.¹⁰ Although these legal topics are typical discussion topics,¹¹ jurisprudence goes beyond the historical and political domains, probing into questions of theory and meaning.

In the Western tradition, jurisprudence typically asks: (1) What is truth? (2) What is law? (3) How does law differ from custom or manners? (4) What is justice? (5) What are rights? (6) What constitutes an actionable offense? (7) What is causation? (8) What is intention? (9) What is legitimate? (10) Why do bad things happen to good people? (11) When and why do we punish? (12) What do we mean by equality?

A Mormon jurisprudence would, of course, offer its answers to such questions. But at the same time, a Mormon jurisprudence would not just begin or end with the questions that Western jurisprudence has preferred to ask. We should not expect every tradition to ask the same questions. In addition to the questions typically posed by Western tradition, a Mormon jurisprudence

would be more inclined to ask: (1) What is goodness? (2) What is love? (3) How does law differ from covenants or principles? (4) What is mercy? (5) What are duties? (6) What constitutes repentance and restitution? (7) What is responsibility? (8) What is free agency? (9) What is authority? (10) It questions why bad things happen at all.¹² (11) When and how do we offer assistance? (12) What do we mean by equanimity and harmony? In sum, Mormon jurisprudence asks overlooked questions, advancing these often-underrepresented topics.

Mormonism is both a worldwide and an eternally oriented movement. Thus, Mormons must begin thinking in terms of “Mormon jurisprudences”—members of The Church of Jesus Christ of Latter-day Saints, as jurists in various countries and cultures, must work to understand and utilize principles of the gospel within the context of their own legal system, while at the same time thinking in transcendent terms that unify Mormon jurisprudential thought across all cultures.

With all this in mind, it is also important to remember that a jurisprudence is not the same thing as an ideology, but it is not easy to sustain the distinction between the two. Jurisprudence asks how we think, not what we think. In this regard, this article turns attention to three fundamental features that would significantly shape any Mormon jurisprudence. First, such a jurisprudence would be rooted in Mormon scripture. Second, such a jurisprudence would be inclusive, though not eclectic. And third, such a jurisprudence would be fundamentally pluralistic, though not polycentric.

I. Rooted in Mormon Scripture

Whatever else one may say, a Mormon jurisprudence must be based solidly in scripture; and, indeed, Latter-day Saint scriptures are filled with seminal statements about the nature and operation of law, both divine and human, spiritual and temporal. Studying scripture will be the closest ally of Mormon jurisprudence.

A primary issue then becomes “And what is scripture?”¹³ The premises of a Mormon jurisprudence must be based in the first instance in all Latter-day Saint canonical works, namely the Old and New Testaments,

the Book of Mormon, the Doctrine and Covenants, and the Pearl of Great Price.¹⁴ Elaborations may be found in intentional, relevant statements by high-ranking Latter-day Saint Church leaders, but these may be less universally applicable than the canonical revelations. No scripture is for personal interpretation,¹⁵ and yet neither is scripture self-interpreting.

A Mormon jurisprudence will need to distill, articulate, and extract from the body of scripture “correct principles” that will appropriately govern all circumstances of human life.¹⁶

In this process the scriptures must be carefully and broadly studied. A passage’s original intent is important, but so is the history of its reception and use as canon within Mormon communities.

For example, one must wonder: What was the Book of Mormon prophet Nephi’s intent when he said that “all are alike unto God”?¹⁷ His pronouncement sounds like the beginnings of a jurisprudence of critical race theory;¹⁸ but how revolutionary and transformational is Mormonism?¹⁹

Indeed, Joseph Smith said that Mormonism will revolutionize the world, but by making all men friends.²⁰ Does Lehi, another Book of Mormon prophet, agree with Plato’s *Philebus* that pleasure is the purpose of life and basis of a jurisprudence when he, Lehi, says, “[M]en are, that they might have joy”?²¹ Not likely. But what did Lehi mean?

Perhaps most directly pertinent to the law, legal cases in the scriptures need to be carefully analyzed: What rules of law and holdings emerge from scriptural accounts such as the trial and execution of Naboth;²² the action of Boaz on behalf of Ruth;²³ the trial of Jeremiah at the temple;²⁴ or, in the Book of Mormon, the case of Sherem against Jacob²⁵ or the trials of Abinadi, Nehor, or Korihor?²⁶ The same could be asked of the trials of Jesus, Paul, and others.²⁷ Why are there so many legal cases in the scriptures? What would a Mormon jurisprudence draw from them?

Equally difficult to understand—historically, linguistically, literarily, comparatively,

What rules of law emerge from scriptural accounts such as the trials of Abinadi, Nehor, or Korihor? Why are there so many legal cases in the scriptures? What would a Mormon jurisprudence draw from them?



collectively, and practically—are the various and often conflicting or changing bodies of rules or legal codes in the scriptures. What is one today to make of Jehovah’s rules of judicial ethics found at the end of the Code of Covenant in Exodus 23, the concept of social justice found in the laws of Deuteronomy, the legal elements concerning divorce and perjury in the Sermon on the Mount, or the statement published in Doctrine and Covenants, section 134, on government? One must look carefully at these issues to determine not only what the word *kill* or *false witness* actually meant in Hebrew in the Ten Commandments, but also what the implications of those meanings are. Is there a scriptural position on tolerance? On struggle and resistance? On analogical reasoning? On legal analysis? On collective intention? On social choice? On human dignity? On the boundaries of democratic pluralism?

The scriptures are filled with laws, teachings, statutes, ordinances, commandments, and testimonies in all their varieties. Legal topics in the scriptures often appear or are assumed in prophetic texts, revelations, ethical admonitions, speeches, sermons, proverbs, parables, psalms, histories, and narratives.²⁸ In many ways, the Mormon scriptural package is endless.

II. Not Random or Eclectic, But Inclusive

In 1931 the German mathematician Gödel proved an important hypothesis known as the incompleteness theorem.²⁹ He demonstrated that any system can be either complete or consistent, but not both.³⁰ Applying his theorem to systems of thought, it has been noted that systematic theologies and strictly rational philosophies may well achieve a satisfying sense of internal consistency, but they do so at the expense of

completeness. The standard objections to Aquinas’ naturalism, Kant’s idealism, or Hart’s positivism is that they exclude too much of the picture of life,³¹ saying more and more about less and less, until they say virtually everything about nothing. Abstractions may be clean and clear, but they are also just that, extractions of selected parts from an unmanageable and perhaps naturally inconsistent whole. And the answer is not, with critical legal studies,³² or perhaps legal polycentrism,³³ to say less and less about more and more, until one is left to say nothing about everything.

Mormon thought, in contrast, privileges fullness, abundance, completeness, and all that the Father has, even if that means that Mormon thought, like Mormon life, appears to be overloaded, inconsistent, in many ways rationally unprovable and torn by competing values and obligations that pull, stretch, and expand in many ways. This may produce

episodes of cognitive dissonance, ethical quandaries, confusion, mystery, and unknowability, but Mormonism boldly recognizes that there must be an opposition in all things,³⁴ including rationality and irrationality, as paradoxical as that may seem.³⁵

Faced with a choice, a Mormon jurisprudence will always prefer fullness over mere coherence, choosing to circumscribe all truth into one great whole. For this very reason, Joseph Smith objected to the limiting effects of denominational creeds, rational and consistent though they may be.



A logical result of this inclusivism can be found in one of the basic impulses of Mormonism: gathering.³⁶ Joseph Smith and Brigham Young, the first two presidents of the LDS Church, gathered people from various places to Kirtland and Nauvoo, to Utah and Zion. But they saw that the principle of gathering embraces not only groups of people but also bodies of truth.

As a result, some people will say that a Mormon jurisprudence is eclectic. But there is a difference between being eclectic and being open or willing to be inclusive. A Mormon “rule of inclusion” may need to be developed. It will fall back, at a minimum, onto the Mormon concept of scripture, which is both open *and* canonical, transcendent *and* immanent.

As a Mormon jurisprudence reads various theories of law, it will find useful elements in each that are true and can be supported by scripture. For example:

DIVINE LAW THEORY—God is a lawgiver in the Bible, and the Doctrine and Covenants expansively affirms, “[God] hath given a law unto all things.”³⁷ Section 130:20 fundamentally speaks of a law “irrevocably decreed in heaven before the foundations of this world.”³⁸ Moreover, Joseph Smith clearly asserted, God “was the first Author of law.”³⁹

NATURAL LAW THEORY—Law naturally exists to some extent independent even of God, for in Alma’s *reductio ad absurdum*, if God somehow were to be unjust, “God would cease to be God.”⁴⁰ God is also bound when people do what He says.⁴¹ Law is necessary, Lehi argued: “[I]f . . . there is no law . . . there is no God.”⁴² And in some sense, law or its effects are immutable or fixed:

And again, verily I say unto you, he hath given a law unto all things, by which they move in their times and their seasons;

*And their courses are fixed, even the courses of the heavens and the earth, which comprehend the earth and all the planets.*⁴³

LEGAL IDEALISM—Idealist views of law seem enticing, for God is a God of order.⁴⁴ He invites us to come and reason together with Him.⁴⁵ But He reminds us that His thoughts are not our thoughts.⁴⁶ Still, law strives for ideal harmony, and “[t]he law of the Lord is [ideally] perfect.”⁴⁷

LEGAL POSITIVISM—Positivist formulations abound in Mormon scripture and rhetoric. On one hand, God’s sovereign commands are coupled with explicit sanctions and, on the other hand, with rewards upon which command that blessing is predicated.⁴⁸ In the Book of Mormon, Lehi even goes as far to say that where there is no law, there is no punishment.⁴⁹

SOCIOLOGY—Sociological theories of jurisprudence look to the instrumental values of law in furthering the purposes of life, in promoting the inner order of human associations, and in strengthening the conditions of social solidarity.⁵⁰ So do LDS precepts and policies.

PRAGMATISM—Pragmatic views of law are prescriptive; so are the scriptural *be-*

ye-therefores and the rules of conduct prescribed for members of the Church throughout scripture.⁵¹

LEGAL REALISM—Even legal realism may have a place in a Mormon jurisprudence. Realist views are predictive, or at least attempt to predict future judicial outcomes based on past experience. Likewise, the prophecies about how the Final Judgment will proceed and what the consequences of human choices will be are also predictive.⁵²

PSYCHOLOGY AND PHENOMENOLOGY—Psychological and phenomenological constructs of law⁵³ seem consonant with the scriptural injunctions to find and do justice, not in or with law books and past precedents, but “in the fear of the Lord, faithfully, and with a perfect heart.”⁵⁴

And so it goes: Wherever truths may be found, they will be embraced and utilized by a Mormon jurisprudence.

III. Fundamentally Pluralistic

As one may readily discern from the foregoing discussion of the Latter-day Saint concept of open canon and from the strong Latter-day Saint preference for fullness, the main philosophical assumptions that will drive the engine of a Mormon jurisprudence are all distinguished by a strong inclination, not necessarily toward pluralism, but toward pluralistic manifolds.

Over the years, I have spoken with many scholars of various faiths. These discussions have made me keenly aware that words and phrases, concepts and presuppositions, all of which seem perfectly obvious and intuitively valid to me, may mean something completely different, or perhaps even nothing at all, to a person of another persuasion. Frequently, this results in frustration, misrepresentation, or abandonment of the topic.

As I sat listening to intellectual ships passing in the night, it dawned on me why so many points of disjunction exist between Mormonism and traditional Christian orthodoxy. The common element present in Evangelical objections against Mormon

◀
Joseph Smith and Brigham Young saw that the principle of gathering—one of the basic impulses of Mormonism—embraces not only groups of people but also bodies of truth.

◀

thought is this: Evangelicals, including such notables as C. S. Lewis, are monists, where Mormons are pluralists. Over and over again, Mormon doctrine relishes multiplicity. Many words found in traditional Christianity are principally understood in the singular, whereas the same words in Mormon doctrine are understood predominantly as plurals:⁵⁵ priest-hoods and priesthood offices;⁵⁶ kingdoms, powers, and principalities;⁵⁷ intelligences, two creations, and worlds without number;⁵⁸ hosts of heaven; messengers;⁵⁹ continuing revelations and gifts of the spirit;⁶⁰ scriptures, dispensations, covenants, ordinances, two Jerusalems, and two deaths; heavens;⁶¹ degrees of glory;⁶² many “mansions”,⁶³ eternal lives; and even, in certain senses, saviours⁶⁴ and gods.⁶⁵ It is second nature for Latter-day Saints to think, comfortably, in terms of manifold pluralities. In contrast, it is first nature for Evangelicals to think, readily, in terms of singularity: one kingdom, one scripture, one priesthood of all believers, one saving act, and one sanctifying human response of faith to God’s singular grace.⁶⁶

What one finds here generally and in Doctrine and Covenants 88:36–38 particularly is a very profound and important approach to law, which can be called a general theory of *legal* relativity. These verses reveal that “all kingdoms have a law given; and there are many kingdoms; . . . and unto every kingdom is given a law; and unto every law there are certain bounds also and conditions.” Thus, natural law cannot be universalized specifically because all creation is not in fact one homogenous universe, but a multiverse. Every kingdom has a law, yet it is a natural law, at least in the sense that it is consistent with the nature of the matter within that kingdom. A Mormon jurisprudence would recognize that many laws pertinent to this world are quite possibly irrelevant in the setting of another kingdom. Do laws against murder have anything to do with another world of immortal beings?

A binary world is presumed in the opposites that constituted the Creation (dark and light, wet and dry, male and female), with both sides of these pairs of opposites being not only descriptive of the nature of this world but also necessary to permit choice. As Lehi famously stated, “For it must needs be, that there is an opposition in all things.”⁶⁷ A Mormon metaphysics, therefore, would ad-

JOHN W. WELCH NAMED

KARL G. MAESER DISTINGUISHED

FACULTY LECTURER FOR 2010

John W. Welch, professor of law at J. Reuben Clark Law School, is the first Law School professor to be awarded the Karl G. Maeser Distinguished Faculty Lecturer Award. The university’s highest faculty honor recognizes Welch’s prodigious scholarship, exemplary and far-reaching service, and teaching. >>> Dean James Rasband said of Welch’s accomplishments:

There are, I suppose, a number of ways to assess whether a nominee’s contributions have been “exceptional” as the criteria for the award demand. One way I have looked at this is to hypothesize writing a history of the university and asking whether the work of a particular faculty member would merit mention. Most of us, I sense, would be thrilled with some mention or footnote, but Jack’s work could merit a whole chapter. From his early undergraduate and continuing work on chiasmus to his 1979 creation of the Foundation for Ancient Research and Mormon Studies (FARMS), which was later brought into the university, to his influential role in the Encyclopedia of Mormonism and the Joseph Smith Legal Papers to his almost-20-year editorship of BYU Studies, Jack has had a powerful influence on the trajectory of Mormon studies. More important, the influence has been the blend of faith and rigorous inquiry that is at the heart of the university’s aspirations. Jack is truly the sort of bilingual scholar that President Spencer W. Kimball, in his “Second Century” address, suggested all of us need to be. Jack speaks credibly to secular scholars of ancient and religious texts while at the same time illuminating the doctrines and truths of the restored gospel.

dress and include such concepts as causation, determinism, fate, freedom, influence, addition, and relinquishment of freedom, accepting as fundamental the axiom that human nature is changeable, both for better or worse.

A Mormon jurisprudence would work from a basic understanding of human nature that recognizes the seed of divinity and therefore of eternal value in every human being, however faint it may sometimes seem.⁶⁸ The jurisprudence of Thomas Hobbes begins with the premise that human nature is evil and needs to be contained and controlled

by benevolent ruling forces.⁶⁹ While recognizing that evil forces influence and shape human decisions and that the natural or mortal element in man stands in a state of enmity toward the immortal or divine, a Mormon jurisprudence still assumes that humanity is in essence beneficent and that most of the people most of the time will prefer to choose good over evil.⁷⁰

An ethics of merit and responsibility, individually and collectively, goes hand in hand with this Mormon self-perception, for no one will get to a state of justice by getting

there alone. Permissiveness is not a blessing if it encourages self-destruction, and we mourn each loss as a loss of part of ourselves.

A pluralistic Mormon jurisprudence would reject the idea that all law can be reduced to economics. In fact, one cannot buy many things, let alone the most important things, in this world for money. This irreducibility transforms a jurist's approach to damages, equity, remedies, fairness, justice, and punishment. A Mormon jurisprudence will likewise make room for multiple theories of punishment, not just the one right theory or approach. Individual circumstances and needs will call for the measured and effective use of an arsenal of various punishments. And like Captain Moroni's Title of Liberty, any LDS banner of justice would encompass a host of essential goods, from God, religion, lands, and country to freedom, peace, rights, and children.⁷¹

Concluding Comments

Mormonism, of course, is a young tradition, little more than 180 years old. Think where Christianity was when it was only 180 years old. No Mormon Thomas Aquinas has appeared yet. Latter-day Saints still have much homework to do, and in this they will need the help of many intellectual friends. However, Mormonism is extraordinarily rich in potential. It is deeply devoted to both truth and goodness, justice and mercy, grace and works. How rich is the idea that people should become eventually like God (an idea not unique to Mormonism, as reflected in 1 John 3:2). Whatever a person's view of God's true character or characteristics might be, how much better the world would be if that person would strive to the extent possible in this present mortal experience to be like God.

Most of all, one may see in Mormon jurisprudence a potential to be pluralistic without degenerating back into chaos. In the post-modern world, Mormonism offers a logical alternative to the two prevailing paradigms—relativism and absolutism. A pluralistic theology or jurisprudence should uniquely appeal to and serve the needs and interests of the ever-increasingly complex world in which various cultures, ideologies, interest groups, ethnicities, modalities, and religions abound. Indeed, it should serve the needs of all God's children, in every nation,

kindred, tongue, and people. Is it too much to think that a Mormon jurisprudence might serve those ends even better than the other options that have been put on the jurisprudential table thus far?

ART CREDITS

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NOTES

¹ Robert K. Thomas Professor of Law, Brigham Young University; JD, Duke University (1975); MA Classics, Brigham Young University (1970); Lit. Hum., Greek Philosophy, Oxford University (1970–1972). This article is extracted from a paper delivered on February 14, 2004, to a national meeting of the student section of J. Reuben Clark Law Society held at Harvard Law School. The author expresses appreciation for the invitation of the *Regent University Law Review* to publish this paper. For the full publication, see 21 *REGENT U. L. REV.* 79 (2008).

¹ Nancy Gibbs, *The Religion Test: Is It Sheer Bigotry to Say You Won't Vote for Someone Because He's a Jew? A Muslim? What About a Mormon?* *TIME*, May 21, 2007, at 41. For additional discussion, see also the conference at Princeton University Center for the Study of Religion: Mormonism and American Politics (Nov. 9–10, 2007), <http://www.princeton.edu/~csrelig/mormonism&politics>.
² See generally CRAIG L. BLOMBERG & STEPHEN E. ROBINSON, *HOW WIDE THE DIVIDE? A MORMON & AN EVANGELICAL IN CONVERSATION* (1997); ROBERT L. MILLET, *A DIFFERENT JESUS? THE CHRIST OF THE LATTER-DAY SAINTS* (2005); ROBERT L. MILLET & GERALD R. McDERMOTT, *CLAIMING CHRIST: A MORMON-EVANGELICAL DEBATE* (2007); MORMONISM IN DIALOGUE WITH CONTEMPORARY CHRISTIAN THEOLOGIES (David L. Paulsen & Donald W. Musser eds., 2007) (offering models of interfaith conversation through a collection of 11 extended theological exchanges between leading Protestant and Latter-day Saint scholars, including a foreword by Martin E. Marty); *THE NEW MORMON CHALLENGE* (Francis J. Beckwith et al. eds., 2002); Stephen E. Robinson, *LDS Doctrine Compared with Other Christian Doctrines*, in *ENCYCLOPEDIA OF MORMONISM* 399 (Daniel H.

Ludlow ed., 1992); Jan Shipps, "Is Mormonism Christian?" *Reflections on a Complicated Question*, 33 *BYU STUDIES*, No. 3, at 438 (1993).

- ³ See generally RICHARD LYMAN BUSHMAN, *MORMONISM: A VERY SHORT INTRODUCTION* (2008); DOUGLAS J. DAVIES, *AN INTRODUCTION TO MORMONISM* (2003); *ENCYCLOPEDIA OF MORMONISM* (1992) (containing clear, nonpolemical definitions and explanations of hundreds of Latter-day Saint doctrines, practices, and beliefs); *THE WORLDS OF JOSEPH SMITH: A BICENTENNIAL CONFERENCE AT THE LIBRARY OF CONGRESS* (John W. Welch ed., 2006).
- ⁴ For various reasons, between 1819 and 1844, Joseph Smith had numerous court appearances in New York, Ohio, Missouri, and Illinois, either as a witness, a defendant, a party to a business transaction, or a judge. See, e.g., Joseph I. Bentley, *Legal Trials of Joseph Smith*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 2, at 1346–48 (providing a summary of Joseph Smith's interactions with the courts); and a forthcoming volume edited by Jeffrey N. Walker, Gordon A. Madsen, and John W. Welch on Joseph Smith's many encounters with the law.
- ⁵ See, e.g., Ray Jay Davis, *Antipolygamy Legislation*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 3, at 52; Richard D. Poll, *The Legislative Antipolygamy Campaign*, 26 *BYU STUDIES*, No. 4, at 107 (fall 1986).
- ⁶ See generally FRANK W. FOX, *J. REUBEN CLARK: THE PUBLIC YEARS* (1980).
- ⁷ See generally REX E. LEE, *A LAWYER LOOKS AT THE EQUAL RIGHTS AMENDMENT* (1980).
- ⁸ See generally Lynn D. Wardle, "Multiply and Replenish": *Considering Same-Sex Marriage in Light of State Interests in Marital Procreation*, 24 *HARV. J.L. & PUB. POL'Y* 771 (2001) (discussing and advocating a global interest in the protection of traditional marriage).
- ⁹ See, e.g., Richard G. Wilkins, *The Principles of the Proclamation*, 44 *BYU STUDIES*, No. 3, at 5, 8, 16–19 (2005); cf. Richard G. Wilkins, *Protecting the Family and Marriage in a Global Society*, 6 *ENCOUNTERS: J. INTERCULTURAL PERSPECTIVES* 223, 224–26 (2000) (discussing the effect of the 1996 United Nations proposals and policy initiatives that impacted the international definition of the family, women's rights, and child welfare).
- ¹⁰ Doctrine and Covenants 98:7, 101:77, 101:80; *TEACHINGS OF THE PROPHET JOSEPH SMITH* 147 (Joseph Fielding Smith ed., 1976) (1938) [hereinafter *TEACHINGS*]; Rex E. Lee, president of Brigham Young Univ., "The Constitution and the Restoration," (Jan. 15, 1991), in *BRIGHAM YOUNG UNIVERSITY SPEECHES, 1990–1991*, 1, at 17–18. See generally Panel Discussion, *What Is the Proper Role of the Latter-day Saint with Respect to the Constitution?* 4 *BYU STUDIES*, No. 2, at 151 (winter 1962) [hereinafter Panel Discussion] (a compilation of discussions on Mormonism and the United States Constitution).
- ¹¹ See, e.g., James B. Allen, *J. Reuben Clark, Jr., on American*

- Sovereignty and International Organization*, 13 *BYU STUDIES*, No. 3, at 347 (spring 1973); Christopher L. Blakesley, *Terrorism and the Constitution*, 27 *BYU STUDIES*, No. 3, at 197 (summer 1987). Additional Mormon legal scholarship can be found in the *BYU Studies* online archives, located at <http://byustudies.byu.edu/>.
- 12 See, e.g., David L. Paulsen, *Joseph Smith and the Problem of Evil*, 39 *BYU STUDIES*, No. 1, at 53 (2000); John Sutton Welch, *Why Bad Things Happen at All: A Search for Clarity Among the Problems of Evil*, 42 *BYU STUDIES*, No. 2, at 75 (2003).
- 13 See W. D. Davies & Truman G. Madsen, *Scriptures*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 3, at 1277.
- 14 Clyde J. Williams, *Standard Works*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 3, at 1415–16.
- 15 2 Peter 1:20.
- 16 John Taylor, *The Organization of the Church*, *MILLENNIAL STAR*, Nov. 15, 1851, at 337, 339 (quoting Joseph Smith).
- 17 2 Nephi 26:33.
- 18 See SURYA PRAKASH SINHA, *JURISPRUDENCE: LEGAL PHILOSOPHY IN A NUTSHELL* 341 (1993). (“[Critical race theory] analyzes the relationship of law and racial subordination in the United States.”)
- 19 See generally Dwight N. Hopkins & Eugene England, *A Dialogue on Black Theology*, in *MORMONISM IN DIALOGUE WITH CONTEMPORARY CHRISTIAN THEOLOGIES*, *supra* note 2, at 341; Dwight N. Hopkins et al., *A Dialogue on Womanist Theology*, in *MORMONISM IN DIALOGUE WITH CONTEMPORARY CHRISTIAN THEOLOGIES*, *supra* note 2, at 303; Rosemary Radford Reuther & Camille Williams, *A Dialogue on Feminist Theology*, in *MORMONISM IN DIALOGUE WITH CONTEMPORARY CHRISTIAN THEOLOGIES*, *supra* note 2, at 251.
- 20 TEACHINGS, *supra* note 10, at 316, 366.
- 21 2 Nephi 2:25.
- 22 1 Kings 21:1–14.
- 23 Ruth 4:1–13.
- 24 Jeremiah 26:8–24. This case is discussed in John W. Welch, *The Trial of Jeremiah: A Legal Legacy from Lehi’s Jerusalem*, in *GLIMPSES OF LEHI’S JERUSALEM* 337 (John W. Welch et al. eds., 2004).
- 25 Jacob 7:1–20.
- 26 Mosiah 12–17; Alma 1:10–15, 30:20–56. See generally JOHN W. WELCH, *THE LEGAL CASES IN THE BOOK OF MORMON* (2008) (providing detailed discussions of each of the legal cases in the Old Testament and Book of Mormon).
- 27 See generally John W. Welch, *Latter-day Saint Reflections on the Trial and Death of Jesus*, *CLARK MEMORANDUM*, fall 2000, at 2; John W. Welch, *Miracles, Maleficium, and Maiestas in the Trial of Jesus*, in *JESUS AND ARCHAEOLOGY* 349 (James H. Charlesworth ed., 2006).
- 28 See generally JAMES K. BRUCKNER, *IMPLIED LAW IN THE ABRAHAM NARRATIVE: A LITERARY AND THEOLOGICAL ANALYSIS* (2001); DAVID DAUBE, *STUDIES IN BIBLICAL LAW* (The Lawbook Exchange, ltd. ed., 2004) (1947); ZEV W. FALK, *HEBREW LAW IN BIBLICAL TIMES 1–16* (2d ed. 2001); Raymond Westbrook & Bruce Wells, *Everyday Law in Biblical Israel* (2009); Richard H. Hiers, *Justice and Compassion in Biblical Law* (2009); Cheryl B. Anderson, *Ancient Laws and Contemporary Controversies* (2009); Raymond Westbrook, *Biblical Law*, in *AN INTRODUCTION TO THE HISTORY AND SOURCES OF JEWISH LAW 1* (N. S. Hecht et al. eds., 1996). For several thousand references to books and articles about legal topics in the Bible, see JOHN W. WELCH, *BIBLICAL LAW CUMULATIVE BIBLIOGRAPHY* (Brigham Young Univ. Press & Eisenbrauns CD-ROM, 2005).
- 29 ERNEST NAGEL & JAMES R. NEWMAN, *GÖDEL’S PROOF 94–95* (5th impression, N.Y. Univ. Press 1964) (1958).
- 30 *Id.* Gödel’s work as a young mathematician at the University of Vienna successfully proved the “axiomatic” approach to mathematical thought as unsound. *Id.* at 3–5. The original proofs of Gödel attacked the ancient Greek approach to mathematics, which accepts as true certain unproven axioms and then derives from those axioms all other propositions as theorems. *Id.* at 4–5. This approach was successfully used in geometry and, in Gödel’s time, was being applied to other forms of mathematics. *Id.* Gödel’s proof showed this approach unsound, and his theories have since been extended beyond mathematics to other disciplines, including philosophy and systematic theology. *Id.* at 6–7.
- 31 See, e.g., SURYA PRAKASH SINHA, *JURISPRUDENCE: LEGAL PHILOSOPHY IN A NUTSHELL* 202–04 (1993).
- 32 *Id.* at 297, 307–14 (defining the major tenants of critical legal studies); Lewis A. Kornhauser, *The Great Image of Authority*, 36 *STAN. L. REV.* 349, 364–71 (1984).
- 33 SURYA PRAKASH SINHA, *JURISPRUDENCE: LEGAL PHILOSOPHY IN A NUTSHELL* 347–49 (1993). See generally PLURALISM AND LAW (Arend Soeteman ed., 2001) (containing a series of articles addressing the problems and issues posed to the law in a global community); WARWICK TIE, *LEGAL PLURALISM: TOWARD A MULTICULTURAL CONCEPTION OF LAW* (1999).
- 34 2 Nephi 2:11.
- 35 See David L. Paulsen, *Harmonization of Paradox*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 2, at 402–03. See generally TERRY L. GIVENS, *PEOPLE OF PARADOX: A HISTORY OF MORMON CULTURE* (2007).
- 36 Ronald D. Dennis, *Gathering*, in *ENCYCLOPEDIA OF MORMONISM*, *supra* note 2, at 536.
- 37 Doctrine and Covenants 88:42.
- 38 *Id.* at 130:20.
- 39 TEACHINGS, *supra* note 10, at 56.
- 40 Alma 42:13.
- 41 Doctrine and Covenants 82:10 (“I, the Lord, am bound when ye do what I say; but when ye do not what I say, ye have no promise.”).
- 42 2 Nephi 2:13.
- 43 Doctrine and Covenants 88:42–43.
- 44 See *Id.* at 88:119 (stating that the Lord’s house is “a house of order”).
- 45 Isaiah 1:18.
- 46 Isaiah 55:8.
- 47 Psalms 19:7.
- 48 Doctrine and Covenants 130:21.
- 49 2 Nephi 2:13.
- 50 SURYA PRAKASH SINHA, *JURISPRUDENCE: LEGAL PHILOSOPHY IN A NUTSHELL* 223–45 (1993).
- 51 See, e.g., Doctrine and Covenants 105:41; Exodus 22:31; Luke 6:36; Matthew 5:48; 3 Nephi 12:48.
- 52 Alma 12:13–18; Mosiah 3:24–27.
- 53 SURYA PRAKASH SINHA, *JURISPRUDENCE: LEGAL PHILOSOPHY IN A NUTSHELL* 284–95 (1993).
- 54 2 Chronicles 19:9; see also Doctrine and Covenants 97:21.
- 55 All English translations of the Bible, including the New International Version, sometimes singularize words, even though the ancient Hebrew or Greek might have used a plural.
- 56 Ephesians 4:11; Hebrews 7.
- 57 Titus 3:1.
- 58 Compare Hebrews 1:2, 11:3 (New International Version), with Hebrews 1:2, 11:3 (King James Version).
- 59 Amos 3:7.
- 60 1 Corinthians 12:4–11.
- 61 Matthew 5:3, 10:10, 6:9. Although “heaven” is used in the singular in the King James version, the original Greek is often in the plural, *ouranoi*. *NEW BIBLE DICTIONARY* 465–66 (J. D. Douglas et al. eds., 2d ed. 1982).
- 62 1 Corinthians 15:40–42.
- 63 John 14:2. The original Greek word is *monai*. *NEW BIBLE DICTIONARY*, *supra* note 61, at 735.
- 64 Compare Obadiah 1:21 (New International Version) (translated as “deliverers”), with Obadiah 1:21 (King James Version) (translated as “saviours”).
- 65 Psalms 82:6.
- 66 This should come as no surprise, since Protestantism is rooted in its general affirmation of the five “*solas*”: *sola scriptura* (scripture alone), *solus Christus* (Christ alone), *sola gratia* (grace alone), *sola fide* (faith alone), and *sola Deo gloria* (glory to God only).
- 67 2 Nephi 2:11.
- 68 See generally Truman G. Madsen, *The Latter-Day Saint View of Human Nature*, in *ON HUMAN NATURE: THE JERUSALEM CENTER SYMPOSIUM 95* (Truman G. Madsen et al. eds., 2004) (exploring the Latter-day Saint view of human nature in a collection containing nine different religious traditions’ views on the same).
- 69 THOMAS HOBBES, *LEVIATHAN* 74–78, 84–85 (Edwin Curley ed., Hackett Publ’g Co. 1994) (1668).
- 70 Mosiah 29:26.
- 71 Alma 43:47, 46:12.



MEHRSA BARADARAN



SHIMA BARADARAN



BRIGHAM DANIELS



CAROLINA NÚÑEZ

BYU Law School Welcomes New Faculty Members

J. Reuben Clark Law School is pleased to welcome new faculty members Mehrsa Baradaran, Shima Baradaran, Brigham Daniels, and Carolina Núñez.

As an academic research fellow at NYU Law School, Professor Mehrsa Baradaran has been researching banking regulation, securities, and administrative law since May 2009. She brings her teaching interests in banking regulation, bankruptcy, secured transactions, administrative law, commercial law, and property law to BYU Law School.

Professor Baradaran attended BYU on a University Trustee Scholarship and graduated cum laude from the English department in 2002. In 2005 she graduated from New York University Law School, also cum laude. At NYU she was a Deans Merit Scholar, a member of the Law Review, and president of the Middle Eastern Law Student Association, and she participated in an immigration rights clinic. Following her graduation from law school, Professor Baradaran worked as a corporate law associate at Davis, Polk & Wardwell in New York City for three years.

Professor Shima Baradaran comes to J. Reuben Clark Law School from the University of Malawi, where she worked as a Fulbright senior scholar. She also served as a senior legal aide in the Malawi Legal Aid Department, where she represented indigent clients in criminal and civil actions and managed a \$12-million criminal justice project for the UK Department for International Development. Building on her experience in Malawi, Professor Baradaran will focus her teaching and research on criminal law and procedure.

As an undergraduate, Professor Baradaran studied sociology at Brigham Young University and graduated as department valedictorian. As a law student at J. Reuben Clark Law School ('04), she graduated first in her class while serving as editor in chief of the *BYU Law Review* and as a teaching assistant in both civil procedure and constitutional law. After law school graduation, Professor Baradaran clerked for the Honorable Jay Bybee on the Ninth Circuit Court of Appeals and then worked as an associate at Kirkland & Ellis in New York City from 2005 to 2008.

Professor Brigham Daniels just completed his second year as an assistant professor of law at the University of Houston Law Center, where he taught environmental law, property law, and related courses. In May 2010 Professor Daniels received a PhD in environmental science and policy from Duke University's Nicholas School of the Environment.

Professor Daniels graduated magna cum laude in economics from the University of Utah in 1998 and was a recipient of the Harry S. Truman Scholarship. He also earned an MPA from the University of Utah. In 2003 Professor Daniels received a juris doctorate from Stanford Law School, where he was an associate editor of the *Stanford Law Review*. Between graduating from law school and returning to Duke to pursue his PhD, Professor Daniels served as a federal district court law clerk to the Honorable Ted Stewart (District of Utah) and worked as an associate at Parsons, Behle, & Latimer in Salt Lake City.

Professor Carolina Núñez has been teaching at the Law School as a visiting assistant professor since 2008. During that time she has taught immigration law, torts,

and professional responsibility. She researches and writes about immigration and alienage law, with a specific emphasis on undocumented immigrants. In *Fractured Membership: Deconstructing Territoriality to Secure Rights and Remedies for the Undocumented Worker*, published in the *Wisconsin Law Review* in July 2010 (see also *Clark Memorandum*, spring 2010), she analyzes the intersection between alienage and employment law in the context of broader membership theory. Professor Núñez also addresses the Fourth Amendment rights of undocumented immigrants in a working paper titled *Verdugo's "Substantial Connections" Test: Toward a Post-Territorial Conception of the Fourth Amendment*.

Professor Núñez graduated magna cum laude from Brigham Young University in 2001 with a degree in international studies. A summa cum laude graduate of BYU Law School and managing editor of the *BYU Law Review*, Professor Núñez clerked for Judge Fortunato P. Benavides on the U.S. Court of Appeals for the Fifth Circuit. She subsequently practiced commercial litigation at Stoel Rives LLP in Salt Lake City.

Professors David Thomas and Stephen Wood Retire

BY LISA ANDERSON

Professor David Thomas, the longest-serving faculty member at J. Reuben Clark Law School, retired at the end of August 2010. He joined the Law School faculty in April 1974 and taught for the last 36 years.

"When I first came to the Law School, we were still in our first year of operation," Thomas said. "In the fall of '73 we had seven full-time faculty members. We had to double the faculty for the second year. I was the first after that original seven to come on."

Thomas is one of the few professors who remembers when classes were held at a local Catholic school while waiting for the current law school building to be finished.

"A lot of the faculty and students came as sort of an act of faith. Would it be a really good law school or an average law school?" Thomas said. "From the day we opened our doors, we got high-quality students who had plenty of opportunities to go to other schools and chose to come here to us. It's the quality of students just as much as the quality of faculty that have contributed to the growth of the Law School's quality reputation."

Thomas is a nationally recognized expert on property law, civil procedure, legal history, and legal education, having published over 40 books and several dozen articles on the topics. He authored and edited a 15-volume national property law treatise that is recognized as the authoritative source for national property law and has been cited in hundreds of court cases. He has

been heavily involved in the American Bar Association (ABA), the Association of American Law Schools, and the American Association of Law Libraries.

Professor Thomas has focused on teaching good lawyering practices, legal analysis and reason, and models of behavior. He wants his students to know: "Not all lawyers are arrogant and nasty. You can be a very effective lawyer and be a kind and gentle person."

After he retires, Thomas hopes to spend time with his wife, eight children (two of whom graduated from BYU Law School), and 16 grandchildren. He hopes to serve a mission with his wife.

"David Thomas is known by his colleagues at the Law School as a gentleman, a scholar, and a friend," said Scott Cameron, an associate dean of the Law School. "People are conscious of his sense of calm and equanimity, and he creates a favorable impression whenever he represents the Law School. He will be deeply missed by his colleagues."

Professor Stephen Wood will retire at the end of winter semester 2010 after 34 years of teaching at J. Reuben Clark Law School. His early teaching experiences were largely intertwined with those of his wife, Mary Anne Wood. In 1976 they were both offered positions at BYU Law School, thus becoming the first spouses to teach there at the same time. Mary Anne Wood was also the first woman and mother to be hired as a law professor at BYU.

Stephen Wood, who has taught administrative law at the Law School since joining the faculty, became involved in the Utah Administrative Law Advisory Committee (UALAC) nearly 20 years ago. He initially served as reporter for UALAC; subsequently, he became its chair. UALAC drafted Utah's Administrative Procedures Act (Utah APA), which was signed by Governor Norman Bangerter in 1987.

"We had some tough negotiations [in successfully lobbying for the Utah APA's enactment]," Wood said. "To everybody's amazement the legislation was proposed, it was considered, and it was passed nearly unanimously in both the House and the Senate and became law. It was one of those legislative miracles."

After enactment the big question was if the Utah APA would be effective. Wood and Alvin Robert Thorup, who also was a member of UALAC, have answered that question in their book *Utah's Experiences with Its Administrative Procedures Act: A 20-Year Perspective*, looking both backward—providing a historical account of their experiences in creating the Utah APA—and forward in time. Consequently, the book will be of interest to both those who are interested in the practice of administrative law and those who are or might become involved in law reform.

"Did we create a uniform floor of administrative procedure for all administrative agencies in the state of Utah when engaged in



DAVID THOMAS



STEPHEN WOOD

adjudication? Yes. Is that a good thing? Yes," Stephen Wood said.

In addition to his work for UALAC, Stephen Wood serves as the director of the American Association for the Comparative Study of Law. He served as an associate dean of the Law School from 1979 to 1981. Professor Wood also practiced law in New York and Washington, D.C., for several years before coming to the Law School.

Faculty members respect Professor Wood as a colleague and friend, someone who has had a great influence on the Law School. "Professor Wood's impact on the Law School as a dean and faculty member is marked by his sound judgment and his desire to support the institution and all of its employees," said Associate Dean Scott Cameron.

Professor Tom Lee Becomes Member of Utah Supreme Court

BYU law professor Thomas R. Lee became the newest member of the Utah Supreme Court after the Utah Senate unanimously confirmed his nomination on June 23, 2010.

Lee said he was pleased and excited about this upcoming challenge, although he will miss the full-time association he has had with students and colleagues at the Law School over the past 13 years.

"I have some mixed emotions as this appointment has become a reality—anticipation and excitement over what lies ahead but also a little bit of sadness and regret over what I'm leaving behind," Lee said. "After I get my feet on the ground at this new position, I hope to have time to teach as an adjunct professor at the Law School."

According to Lee, judges have an important but limited role to play in our system of government. They are not policy makers or legislators; they simply implement and apply the law to new circumstances and cases as they arise. As a judge decides a case, Lee explained, it is important that he or she articulate the opinions of the court in a clear, straightforward, and understandable manner.

"I aspire to be a judge whose opinions are accessible to all those who look to the court to govern themselves in accordance with the law," he said. "A judge must decide the cases that come before him in a careful, impartial way, in accordance with the

law. It's crucial that a judge's opinions be clear and understandable."

Although Lee will be missed greatly at BYU Law School, his colleagues have been very supportive of his new position. "I am confident that Tom Lee will

state well. We will miss him at the Law School."

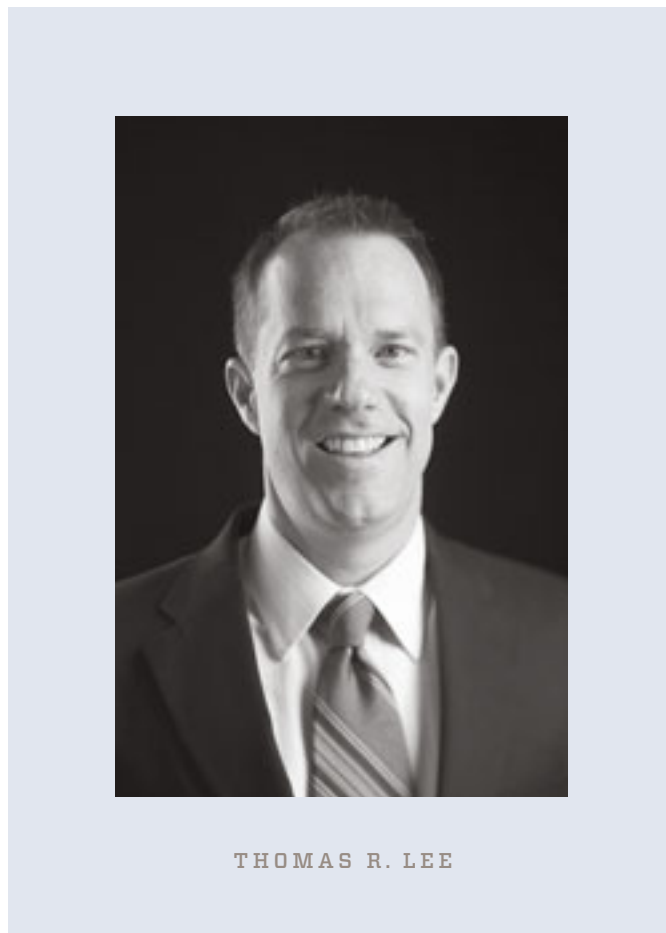
Lee anticipates working closely with his colleagues on the court. All four of the current members of the Utah Supreme Court are people he knows and respects. Lee has

will be a privilege to work closely with such a distinguished body of jurists."

Professor Lee joined BYU Law School in 1997. He clerked for Judge J. Harvie Wilkinson III, U.S. Court of Appeals for the Fourth Circuit, 1991-1992, and Justice Clarence Thomas, United States Supreme Court, 1994-1995.

At BYU, Professor Lee has taught courses in civil procedure, intellectual property, and legal interpretation and analysis. He has had articles published on the topics of trademark and copyright law. Professor Lee is also an accomplished courtroom advocate, having presented oral arguments on trademark issues in federal courts throughout the United States. He currently serves as a member of the International Trademark Association.

Professor Lee's past research has examined varied topics, from the principle of *stare decisis* in Supreme Court precedent to federal jurisdiction over Internet domain names, the history of the use of the preliminary injunction, and even the original meaning of the Census Clause of the Constitution. His scholarly work has often overlapped with appellate work that he has performed for various clients, including a case he argued in the United States Supreme Court challenging the 2000 census for the state of Utah. He has served on the Utah Supreme Court's Advisory Committee on Rules of Civil Procedure and as a member of the Executive Committee for American Inns of Court I.



make a superb justice," said Jim Rasband, dean of J. Reuben Clark Law School at Brigham Young University. "Tom is a gifted classroom teacher, an accomplished scholar, and a giving colleague. Those traits, as well as his sound judgment and love and respect for the law, will serve the

even had the opportunity to work closely with two of them in prior legal positions.

"I really look forward to the process of interacting with my new colleagues on the court," Lee said. "An appellate court is a collegial body that decides cases by collaborations and consensus. It

BYU Law Alumnus 2010 Pro Bono Attorney of the Year



Scott R. Jenkins, J. Reuben Clark Law School alumnus ('77), was selected by the Utah State Bar as the 2010 Pro Bono Attorney of the Year. Jenkins, who is currently an attorney and shareholder at Strong & Hanni, was honored at the Utah State Bar 2010 Pro Bono Public Awards lunch.

Jenkins has spent countless hours providing pro bono legal services to Sudanese refugees, counseling them about legal cases and immigration matters. He helped launch and is general counsel of the organization MADF (Makol Ariik Development

Foundation), which sponsors Sudanese students in graduate studies. In addition, he has continued to serve as pro bono legal counsel for Children of the Andes Humanitarian, an organization that operates an elementary school for children living in the Andes Mountains near Otavalo, Ecuador.

For more than 30 years Jenkins has advised individuals, entities, and charitable organizations on legal matters affecting their lives, families, and businesses, including business organization, public offerings, private

placements, and SEC reporting. He also has counseled with hundreds of individuals regarding their wills, living trusts, legal planning, and probate and litigation matters. He has worked with attorneys in the Middle East, Europe, Africa, South America, and the Far East.

Jenkins earned his JD in 1977 and his BA in history in 1974 from Brigham Young University. He was admitted to the Utah State Bar and the U.S. District Court, District of Utah, in 1978 and the U.S. Court of Appeals, Tenth Circuit, in 1979.

James D. Gordon III Appointed Assistant to the President at BYU

President Cecil O. Samuelson has appointed James D. Gordon III as assistant to the president for Planning and Assessment at Brigham Young University. Gordon will replace Gerrit Gong, who was named to the First Quorum of the Seventy of The Church of Jesus Christ of Latter-day Saints during the Church's April 2010 general conference.

Gordon, whose appointment was effective June 1, is currently the Marion B. and Rulon A. Earl Professor of Law at J. Reuben Clark Law School at BYU. He has served as associate academic vice president for faculty at BYU and as an associate dean and interim dean of the Law School.

"In addition to being a popular teacher and an excellent scholar, Jim is highly regarded for his wise and discerning leadership," said President Samuelson. "His years of administrative experience and scholarship suit him well for this position, which manages the accreditation process for the university. He is an expert on matters pertaining to religious freedom. Through the years he has helped BYU address issues regarding our mission to develop students of faith, intellect, and character."

The president also noted that Gordon has been an exemplary university citizen, participating on numerous university committees

and willingly serving as an interim dean of the Law School.

In making this announcement, President Samuelson paid tribute to Elder Gong and expressed appreciation for his years of service to the university. "Gerrit has been a unique treasure at BYU," said President Samuelson. "He brought significant experience in planning and assessment to the university and has served with keen effectiveness. He is known as both a faithful man and a learned man, having excelled as a scholar with unwavering faith and devotion. Although he certainly will be missed at BYU, we know he will provide great service in his new assignment."

Gordon is well loved by his students for his respectful but often humorous perspective on the law. He has received the university's Abraham O. Smoot Citizenship Award, as well as a number of teaching awards. He has published numerous articles



in law journals, with his scholarship being primarily in the areas of religious freedom, contracts, securities regulation, and legal education.

After receiving a bachelor's degree in political science at BYU, Gordon earned a juris doctorate at the University of California, Berkeley. He clerked for Judge Monroe G. McKay of the U.S. Tenth Circuit Court of Appeals and then practiced law in Salt Lake City before his appointment at BYU.

Law Society Members Are New Mission Presidents

Six members of J. Reuben Clark Law Society left for their assignments as Church mission presidents this past summer. They are joined by their wives as they serve throughout the world.

Lawrence P. Blunck, '84, serves as the Peru Lima North Mission president. He steps away from a law practice with Blunck & Walhood LLC in West Linn, Oregon. He and his wife, Karen, are the parents of four children.

Kent H. Collins, '80, a senior attorney at Parr Brown Gee & Loveless in Salt Lake City, presides over the Indiana Indianapolis Mission. He and his wife, Connie, have three children.

J. Scott Dorius is the new president of the Peru Lima West Mission. A 1979 graduate of the University of San Diego School of Law, he is a shareholder at Tribsch & Frampton law firm in Turlock, California. He and wife Rebecca have two children.

Randy D. Funk, a partner of Sherman & Howard LLC in Denver, Colorado, presides over the India Bangalore Mission. He received his JD from the University of Utah College of Law in 1979. He and his wife, Andrea, have six children.

Leonard D. Greer serves as the Washington Kennewick Mission president. He is partner of Raymond Greer & Sassaman PC in Phoenix and received his JD from the University of Arizona College of Law in 1982. He and his wife, Julie, are the parents of four children.

R. Marshall Tanner presides over the Brazil Campinas Mission. A 1977 graduate of UCLA School of Law, he is a partner of Sheppard, Mullin, Richter & Hampton LLP in Costa Mesa, California. He and his wife, Colleen, have seven children.



PRESIDENT AND
SISTER BLUNCK



PRESIDENT AND
SISTER COLLINS



PRESIDENT AND
SISTER DORIUS



PRESIDENT AND
SISTER FUNK



PRESIDENT AND
SISTER GREER



PRESIDENT AND
SISTER TANNER

Law Alums Become New General Authorities



KEVIN R. DUNCAN

Three J. Reuben Clark Law School alumni have been called as General Authorities of The Church of Jesus Christ of Latter-day Saints.

Kevin R. Duncan, '91, had been serving as a member of the Fifth Quorum of the Seventy in the Utah South Area when he was called to the First Quorum of the Seventy. Elder Duncan's service in the Church includes full-time missionary in Chile, Church service

missionary as associate international legal counsel in South America, and president of the Chile Santiago North Mission.

Elder Duncan earned a BS in accounting, an MACC in taxation, and a JD from Brigham Young University. He began his career as an associate attorney and later founded a corporation, from which he retired in 2005. He and his wife, Nancy, have five children.



DANE O. LEAVITT

Dane O. Leavitt, '83, has been called as an Area Seventy. He was recently released as president of the Cedar City University 2nd (student single) Stake. An attorney and the CEO of the Leavitt Group, he received BA and JD degrees from Brigham Young University. Elder Leavitt and his wife, Ruth, are the parents of six children.

Kevin J Worthen, '82, also serves as a new Area Seventy.

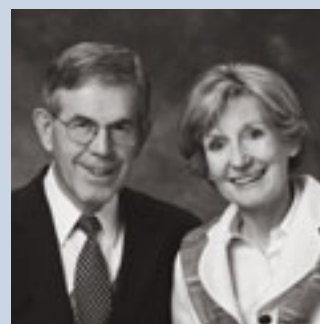


KEVIN J WORTHEN

A former dean of the Law School, he currently serves as advancement vice president of Brigham Young University. Elder Worthen was recently released as president of the Provo Utah Sharon East Stake. He earned an associate's degree at the College of Eastern Utah and bachelor's and law degrees at BYU. Elder Worthen and his wife, Peggy, have three children.

Hafens Called to St. George Temple

Former BYU provost and Law School professor and dean, Bruce C. Hafen and his wife, Marie, will begin serving as president and matron of the St. George Temple in November 2010. >>>>> Hafen has been a member of the First Quorum of the Seventy of The Church of Jesus Christ of Latter-day Saints since 1996. He previously served as a regional representative, stake president's counselor, high counselor, and bishop's counselor. He was president of Brigham Young University—Idaho (then known as Ricks College) from 1978 to 1985. After serving as dean of J. Reuben Clark Law School at BYU from 1985 to 1989, he was named provost of the university, where he continued to serve until becoming a General Authority.



Criminal Defense Work in a War Zone

by Dan Schoeni, CAPTAIN, U.S. AIR FORCE*

FOR THE PAST YEAR, I HAVE SERVED AS AREA DEFENSE COUNSEL (ADC) AT AN UNDISCLOSED location in Southwest Asia in support of Operations Iraqi Freedom and Enduring Freedom. Before this assignment I worked for two years as ADC at Ramstein Air Base, Germany, and tried cases in Germany, Italy, Portugal, and Kuwait. || I am one of two air force judge advocates general (JAGs) providing criminal defense services to more than 30,000 airmen deployed to the United States Central Command and Joint Task Force–Horn of Africa from Djibouti to Kyrgyzstan, some 5,400 miles spanning four time zones. Traveling for courts-martial means donning body armor and helmet, arming up, and flying in and out of combat zones via C-130 or C-17 aircraft and Blackhawk helicopters. **AREA DEFENSE COUNSEL** Ours is a commander-based justice system. JAGs advise; commanders decide. Because of the concern that commanders might abuse their authority by leaning on defense counsel, the area defense counsel (or ADC) was created in 1976. Our posters tout: “We don’t work for the command. We work for you.” || Being an ADC affords litigation experience, teaches one to think like a defense lawyer, and helps better advise commanders. The air force values lawyers with defense experience. **DEPLOYED AREA DEFENSE COUNSEL** The ADC slogan is “Defending those who defend us.” But not everyone is at the tip of that spear. At Ramstein I represented a few aviators and special operators who were active warfighters. More often I was defending the guy who supported the guy who supported another guy who actually defended us. || That changes in a deployed environment. Everyone is on the front line. Cooks, mechanics, and engineers find themselves running for cover, or even returning fire. Minutes after my last court-martial in Iraq, for example, a rocket landed just outside the courthouse; fortunately it didn’t detonate. In a combat zone we’re all in harm’s way. || My travels for this assignment have taken me to Iraq, Saudi Arabia, Kuwait, Afghanistan, United Arab Emirates, and Kyrgyzstan. **HIGHLIGHTS** Some highlights have included an acquittal in a sexual assault case; charges being dropped after a pretrial hearing; a favorable sentence in an involuntary manslaughter case where the client killed his best friend with a single punch; and successfully advocating for a client—discharged for shooting his friend in the knee—to be chosen for the Return to Duty Program. || President John Adams, while a young lawyer in Boston, wrote to a friend about his love for the practice of law: “Now to what higher object, to what greater character, can any mortal aspire than to be possessed of all this knowledge, well digested and ready at command, to assist the feeble and friendless?” Though representing the “feeble and the friendless” has not been without its challenges, defending service members also has its rewards. Members of the armed forces are all volunteers and are a select group. It has been a privilege to represent our deployed airmen. **HOMECOMING** I returned in July and have looked forward to the comforts of home after four years abroad. My wife, Alicia, has often wondered aloud how I talked her into this. It has been a long year apart, but it has been the experience of a lifetime. Alicia and I have been impatiently awaiting an adoption referral since April 2007, and we will soon travel to China to pick up our little girl.

**Iowa native Captain Dan Schoeni graduated from Brigham Young University in 2000 with a degree in philosophy. He received a joint JD and MA in philosophy from the University of Iowa in 2003. Following graduation from law school, he clerked for Iowa Supreme Court Justice Jerry Larson. Capt. Schoeni was commissioned in the U.S. Air Force in 2004. This summer he moved to Washington, D.C., to work at the Air Force Appellate Defense Division. He is an LLM candidate in procurement and public policy at the University of Nottingham.*

The Clark Memorandum welcomes the submission of short essays and anecdotes from its readers. Send your short article (750 words or less) for “Life in the Law” to wisej@law.byu.edu.

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