

Fall 2006

Clark Memorandum: Fall 2006

J. Reuben Clark Law Society

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Recommended Citation

J. Reuben Clark Law Society, BYU Law School Alumni Association, and J. Reuben Clark Law School, "Clark Memorandum: Fall 2006" (2006). *The Clark Memorandum*. 40.
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A black and white illustration of a hand reaching upwards towards a butterfly. The background is a textured, light-colored surface with scattered red and black speckles. The hand is positioned in the lower half of the frame, with fingers slightly spread. The butterfly is in the upper center, with its wings spread, showing a pattern of black and white. The overall mood is one of hope and aspiration.

cm

CLARK MEMORANDUM

J. Reuben Clark
Law School
Brigham Young
University
Fall » 2006

GRIEF AND HOPE

A PROSECUTOR LOOKS AT THE RWANDA TRAGEDY

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The J. Reuben Clark Law Society draws on the philosophy and personal example of the Law School's namesake, J. Reuben Clark Jr., in fulfilling the following mission: We affirm the strength brought to the law by a lawyer's personal religious conviction. We strive through public service and professional excellence to promote fairness and virtue founded upon the rule of law.



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GRIEF

AND

A PROSECUTOR LOOKS AT
THE RWANDA TRAGEDY

HOPE

RWANDA, A SMALL COUNTRY LOCATED IN EAST CENTRAL AFRICA BETWEEN UGANDA, KENYA, AND TANZANIA, WAS FORMERLY HOME TO EIGHT MILLION PEOPLE. IN 1994, BETWEEN APRIL 6 AND MID-JULY, 1,100,000 MEN, WOMEN, AND CHILDREN WERE BRUTALLY MURDERED THERE WHILE AN IGNORANT OR AN INDIFFERENT WORLD STOOD BY. THEY WERE KILLED BY HUTUS BECAUSE THEY WERE TUTSIS, ALTHOUGH THEY SPOKE THE SAME LANGUAGE AND SHARED THE SAME TRADITIONAL CULTURE. RWANDA LOST AN EIGHTH OF ITS POPULATION.

BY HASSAN JALLOW, CHIEF PROSECUTOR, INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

ILLUSTRATIONS BY EDEL RODRIGUEZ

On November 18–19, 2005, the second annual Orrin Hatch Distinguished Trial Lawyers Conference was held at the J. Reuben Clark Law School. Jim Parkinson, '76, organized the program and introduced Hassan Jallow, who addressed the conference.

I KNOW THOSE WHO DID IT,

IN SEPTEMBER of this year I went to Africa with a small group that included Judge Monroe McKay from the 10th Circuit. Our host and guide was Mississippi trial attorney Will Colom, who is with us today.

The highlight of the trip for us was visiting the United Nations tribunal in Arusha, Tanzania. There we met and spent time with Hassan Jallow, former Supreme Court Justice from Gambia and the current chief prosecutor for the human rights trials being held in Arusha. He was selected for this position by the secretary general.



I don't know if any of you have seen the movie *Hotel Rwanda*, a remarkable motion picture that tells the story of how one million people were killed in one hundred days in Rwanda in 1994. They were not killed with a bomb; they were killed one by one, most of them with machetes and bullets and suffocation. Horrible, horrible atrocities were committed, and now there is a tribunal being held in Arusha. Hassan Jallow and Alex Obote-Odora, his assistant, are with us today. Judge McKay, Will, and I had the opportunity to interview Mr. Jallow in Arusha and ask him about what happened. During the interview the three of us looked at each other and said, "He must come to our program and share the message of what he is doing. He is not involved in a murder trial, he is involved in a genocide trial, and we need to hear from him."

Dr. Alex Obote-Odora has also had a remarkable career as an attorney. He is from Uganda and was arrested by Idi Amin after defending two men who were found not guilty. Tortured and taken out of the country, Dr. Obote-Odora ended up in Stockholm, Sweden, where he became a law professor. He has dedicated his life to human rights. If I were going to title this portion of the program, it would be: "What in the World Is Going on in Arusha, and Why Should the World Care?"

The colonial power in Rwanda took the Tutsi minority and made them the dominant ruling class in Rwanda until 1959, when independence came. With independence came democratic rule, and the Hutu majority won with an extremist who was elected and came to power bent on retribution. That is what tragically unleashed the events that occurred in 1994.

The United Nations decided to set up an international tribunal in Rwanda and charged it with the mandate to prosecute all those persons who were responsible for the serious violations of international human law that occurred there. The tribunal was set up in 1995 in Arusha, Tanzania, across the border from Rwanda for security reasons. The tribunal was set up by the United Nations Security Council under statute that is binding on all members of the United Nations. The court has the jurisdiction to prosecute for three offenses: (1) genocide, (2) crimes against humanity, and (3) war crimes.

We, the tribunal, have been in existence now for slightly over a decade. Many, many people are involved in these prosecutions, but we cannot prosecute all of those charged, because the Rwanda tribunal is essentially an ad hoc court. We have a fixed lifetime and must be finished by 2010. That means we prosecute the people who played a political leadership role in the government during the genocide, such as the former prime minister, the secretary of state, the heads of the military services, the heads of the political party that

was then ruling in Rwanda, leaders of the local government, and leaders of the provincial administration.

So far we have been able to conclude the cases of 26 such accused people. They have been prosecuted successfully. They have been convicted and imprisoned. We don't impose the death penalty because we have been set-up by the United Nations, which does not accept the death penalty. We send the prisoners to other jurisdictions for them to serve their terms. At the moment, almost everybody is in the Republic of Mali in West Africa.

We have in process another 26 cases, and it is our intention to have 17 more cases commence. Still another 16 people have been indicted but cannot be traced. They are at large, hiding in various countries, mostly in Africa. We have a special tracking unit whose responsibility it is to gather information on insurgents and their movements and, in collaboration with the national police, to find their whereabouts.

You might wonder when we say that in 10 years or more we have managed to do only 26 cases. That is not many cases to show for a decade. But one thing you have to remember is that when this process was embarked on in 1995, there really was no precedent to go by. The last times that the international committee tried to prosecute in an international court were after WWII at Nuremberg and Tokyo. Those two courts, while they did establish the principle of accountability for these kinds of offenses, did not really provide any useful precedents in terms of how to investigate these offenses or in terms of the legal principles relating to evidence and trial and the principles of substantive law that would help us in our own work.

So right from the beginning it was really very experimental, and the tribunal had to invent its own rules of evidence and procedure, and at the same time we had to bring together the selection of lawyers and investi-

gators from different legal traditions and different cultures and different languages and try to weld them all together as one body. It has not been an easy task, but the process, I think, has been quite successful, and we think we will move much more quickly now than ever before.

There are new challenges as well. When the genocide occurred and the ruling party was overthrown, all those people in positions of leadership fled Rwanda. So we have had to engage in a process of looking for them worldwide and ensuring their arrest and bringing them back to Rwanda. As I said, 16 of them are still at large.

Witnesses have to be brought in from all over the world. So far we have had about 1,500 witnesses from 40 countries worldwide who have testified before the tribunal, and we have had to trace them and arrange for their transportation to and from Arusha and provide protection.

We cannot effect any arrests. All we can do is to try and locate the people that we are interested in. Then we rely on the national police authorities to effect the arrests. When we prosecute them we don't have any place to send them for imprisonment. We have to rely on states to take them and see that they serve their sentences.

What we do in Arusha is very significant. It is important because we try to hold to account those who were responsible for the genocide. Many people have suffered in Rwanda and in very tragic ways. I'll tell you about one of them. His name is Rubaka. He is my chauffeur when I go to visit the investigation divisions. He lost all of the members of his family and is alone in the world today. For several days when I learned of this, I couldn't take my eyes off of him. I couldn't help wondering how he was surviving and how he was carrying this very heavy burden with him. Eventually, I got the courage to ask him: "How do you manage to cope with this?" He said to

AS PROSECUTORS WE CARRY ON OUR SHOULDERS THE EXPECTATIONS OF THE SURVIVORS

TO ENSURE THAT JUSTICE IS DONE.

me, "Well, I know those who did it, I know they are in custody, and it is all on the prospect that the law will catch up with them, and I will be patient." To me, that underscores the important role that the law has to play in this respect.

At the same time, of course, it increased the load, the weight, the burden on my shoulders as a prosecutor. I realized that as prosecutors we carry a lot of responsibility. We actually carry on our shoulders the expectations of the survivors, of the victims who look up to us to ensure that justice is done. That is one reason why the law is so important in this respect. But that is not enough; the law itself is not enough.

For instance, the creation of the tribunal did not take into account the plight of the victims and survivors. The result is that a lot of times our energy and resources have been spent on bringing to account those we presume innocent and I, as prosecutor, presume are guilty. I always tell the judges that for me there is no presumption of innocence; so when I bring them on indictment, I am fully satisfied that they are guilty. We spend a lot of money in maintaining the detainees in excellent conditions and, given the nature of the process and the fact that it takes many years to process these cases, we are forced to credit against their time of imprisonment whatever period they have spent in custody. So there is no urgency as far as they are concerned to bring the cases.

When you sit in court and compare these very healthy and affluent-looking people, very well dressed, with the witnesses for the prosecution who come in with the survivors, you see women who have been the subject of sexual violence, most of whom, as a result, are now suffering HIV infection. It is heart wrenching, because as you observe it you

come to the conclusion that the plight of the survivors has really been ignored altogether. There are also orphans and widows who should be part of the process of ensuring that justice is delivered to the people of Rwanda. A very big gap exists in the system at the moment.

Apart from the issue of the victims, a great breach of trust occurred at various levels. First you had a government that is sworn to protect its people actually planning and implementing the slaughter of those people.

Then you had the breach of trust by the military, the heads of the army, and the heads of the police. They were all sworn and by law they were obliged to defend the civilian population. Yet in their strategy to combat the armed rebels who had invaded the country, they sent out to war all the soldiers and all the policemen, all the security services, defining the civilians as a part of the enemy that had to be eliminated. That was a great breach of trust.

And there was the breach of trust by the clergy. This is not the first time that people have been killed on a large scale in Rwanda, but this was the largest scale. Between 1959 and 1994 there have been a number of occasions when hundreds, sometimes thousands, have been killed. Each time when the people feared for their lives, they ran to the churches, and they survived as a result. This time they entered places of religious worship (and Rwanda is largely Christian) and the clergy failed to protect them. In many instances the clergy walked with the armed militia to surrender these refugees to the militia or to open the doors of the churches and invite in the militia. As a result, in Rwanda today you'll find the remains of people lying in the churches, people who

were slaughtered where they came to seek refuge. Many survivors who lost relatives in these churches find it difficult to enter any church now because of having no confidence in the clergy. Not all the clergy behaved that way, of course. Some were outstanding in their protection of these poor innocent civilians. As a result, we have prosecuted some members of the clergy. Some have been convicted, and some are awaiting trial.

You had doctors, medical doctors, who worked in the hospitals, who, contrary to the oath that they had taken, actually killed their patients in the hospital. They killed their patients, or they surrendered them to other people who killed them. We have prosecuted some doctors, one who is currently on trial.

You had media people, journalists, radio broadcasters, who used their profession, their pens, and their tongues for the business of inciting ethnic hatred and calling on Hutus to slaughter civilians.

You had neighbors, people turning on their neighbors and other people they had once respected and killing them. This is what happened in Rwanda. That is why I describe it as a great breach of trust.

If we want to address the last question as to what we do to prevent the recurrence of these kinds of tragedies, I think that we need to keep this in mind. It is important that all those who were engaged in these actions be

BUT THE LAW ITSELF IS NOT ENOUGH.

prosecuted. But we should also devote some attention to why it happened and what we can do to prevent a recurrence. I don't have the answer to that. It is a question that we will have to try to answer collectively, but I can say a few things.

I think the problem started first with bad government. In this bad government there was no culture, no tradition, no commitment to good government on the part of the leadership. It is therefore important that we seek to encourage in all countries a legal system that provides respect for fundamental rights and freedoms, where we try to implicate in all our communities a culture of tolerance, a culture of respect for human rights, a culture of legality and constitutionality—particularly on the part of those in positions of leadership.

We also need to return as individuals to those basic values of respect for each other, of respect for good neighborliness, and for compassion and for mercy. What better way is there than through our religions, our three great religions, Islam, Christianity, and Judaism? In Rwanda, as we said, over one million people were killed, but there were also good examples of courage and compassion and good neighborliness. I think most of you have seen the movie *Hotel Rwanda*. The movie showed the Hutu manager of a hotel who saved hundreds of civilians at great risk to himself and to his family. That story was played out not just at the hotel but in many places in Rwanda.

Finally, there is the international dimension. The world was in a position to have prevented the Rwanda tragedy. There was enough force in

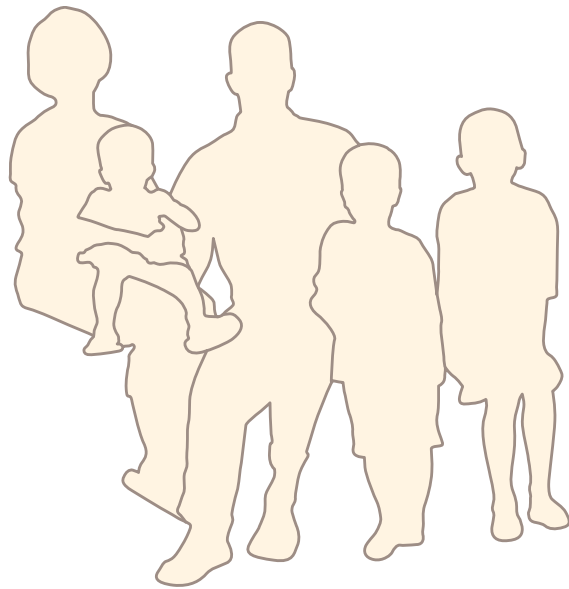
the world to have stopped it. It would not have taken 10,000 troops to do that. Our failure to do so is a blot on all of us. When one million people are murdered anywhere in the world, whether it is Africa or America or Europe, it diminishes all of us; it diminishes the humanity in all of us. We must, therefore, at the international level carry forward the principle of good neighborliness and of respect for each other, of compassion, and of concern for each other. We must live by the principle that the violation of human rights anywhere is a concern for all of us everywhere.



thoughts

on the family

A PROCLAMATION TO THE WORLD



by Annette W. Jarvis, '79 /// Photography by Bradley Slade



Several years ago I was talking with some friends of mine who were devout Catholics. I worked with the husband and through that relationship became good friends with both him and his wife. We had begun a discussion on religion, and in the course of this conversation, the wife asked me the following question: “Annette, I think I know you well enough to ask you something I want to know, and I hope you won’t be offended that I ask. I thought you were a devout Mormon, but Mormon women aren’t allowed to work. Can you explain to me how you can be a devout Mormon and work?”

Some time after this conversation, my husband and I were asked to teach a lesson on The Family: A Proclamation to the World to the high priests in our ward. We used this story to begin the lesson. After telling this story my husband, Joe, turned to the room of high priests and asked them how they would have answered my friend’s question. There was dead silence for several minutes. No one said a word. Finally, the high priest group leader said: “Well, this is the first time I have seen this group reduced to absolute speechlessness!” As I looked around the room, I was thinking that probably half of the men were thinking: “*I’m not touching that question with a 10-foot pole, particularly not with her in the room.*” I think the other half were probably thinking: “*Yeab, I’d like to know the answer to that question too!*”

Fortunately, in real life, when I was asked that question, I was not reduced to silence. Rather, as a working mother I had necessarily thought a lot about it. The way I answered it was to explain to my friend my understanding of the fundamentals of the proclamation on the family.

First, I would like to address my friend’s question about our church’s stance on working women, particularly working mothers. This is an issue that for women so dominates any discussion of the message of the proclamation on the family that it often becomes the only part of the proclamation that is addressed, both inside and outside the Church. As evidence of the pervasiveness of this single issue, consider the fact that when my friend asked me her question, the only thing she knew (or thought she knew) about our church’s stance on the family was some-

thing that was not even true—that women in our church were not *allowed* to work. Further, in almost every discussion I have been involved in with women in the Church on the proclamation on the family, this issue becomes both the focus and the cause of tremendous dissension. Perhaps, in our church’s more public struggles over the issue of working mothers, the greater messages found in the proclamation are not being heard.

To address the question of working mothers, I would like to tell you about my paternal grandparents. I grew up within an hour’s drive of their home in El Monte, California. As a child I admired my grandmother’s strong personality, her inquiring mind, and her ready laugh. My grandfather was one of the hardest working persons I have ever known. He taught me the importance of doing a job well, even a job of relative unimportance. While I grew up with warm and loving memories of their influence in many areas of my life, it was not until I was an adult that I truly appreciated what they had accomplished and what they had taught me.

My grandmother was an amazing woman. She lived a hard life. She was the oldest of five children. Her father died when she was eight years old. Her mother could not emotionally and physically care for the children, so they were divided up among the relatives. My grandmother was sent to live with her aunt and uncle, who did not really want her. Although she was only eight, they made her work long hours in the fields on their farm. I know this not because she told me (because she never complained) but because my grandfather told me. She was a very bright woman and was able to put herself through BY Academy and receive a degree as a bookkeeper. I was lucky to have known her so well as a child, because she died during my college years, just as I was maturing into an adult.

My grandfather also lived a hard life. He grew up on a farm in southern Utah, and when his older brother, the oldest in the family, died in the bed next to him one night during the flu epidemic of 1918, he was forced to leave high school and take his brother’s place on the farm to support his family. Consequently, he was never able to graduate from high school, something that bothered him to the end of his life.





My grandparents moved to California in the mid-1920s, when my father was a baby, so that my grandfather could find a job after the factory where he had been a sugar-beet boiler closed down. My grandmother had worked as a bookkeeper at the factory, which is where I believe they met. Life went well for them in California until the Great Depression hit. My grandfather lost his job and could not find another one. My grandmother, being better educated than my grandfather, found a job as a bookkeeper for a small business, although she was paid far less for doing the job than a man would have been in her place.

When we lived in Reno, I worked from a home office for a large New York law firm with multiple offices throughout the United States. While there I began to work a lot with my firm's Los Angeles office. I was always happy to travel to Los Angeles, because it gave me a chance to visit my grandfather in El Monte. One particular time when I was visiting, my grandfather expressed his admiration for me as a mother of then four (later to be five) children and as a lawyer. He told me that I reminded him of my grandmother, a comment that made me very proud. Then he said something that really surprised me. He said: "You probably get criticized a lot by people in the Church because you work. Your grandmother suffered the same criticism. People in our ward called her a 'career woman' and accused her of not caring about her family. She tried to let these criticisms slide off her back, but I know they hurt her, and it angered me to see her treated that way."

I was astonished. How could anyone have criticized a woman in my grandmother's situation for working? Where had people in our church come up with the idea that if a woman worked, that made her a person who did not care about her family? Yet, based on my own personal experience, I believe there are plenty of people in our church who come to the same conclusion today. In criticizing me and other women like me, many members of the Church ostracize and make life even more difficult for working women who are already stressed by trying to balance

their lives between home and office. I think these members sincerely believe that this attitude is appropriate and sanctioned by the proclamation on the family. This hard-line approach burdens not only married mothers like me, who may be more capable of deflecting the hurt, but also single mothers, whose children are just as important to them as women who have the luxury of being married to a good man who provides physically for them.

The proclamation on the family does not say, as my non-LDS friend thought, that a woman in our church is not allowed to work. It says:

Fathers are to preside over their families in love and righteousness and are responsible to provide the necessities of life and protection for their families. Mothers are primarily responsible for the nurture of their children. In these sacred responsibilities, fathers and mothers are obligated to help one another as equal partners.

It is easier sometimes to try to draw a bright line so you do not have to think and pray about individual situations, but there is no bright line here, nor does this language give any license for stereotyping women who work as career women who do not care about their families. When I read this part of the proclamation, it clearly gives guidelines to the mother and father, but how they work out their situation is between them as they are "obligated to help one another as equal partners." I can guarantee you that my own situation arose out of what my husband and I felt, after much discussion and prayer, was in

the best interests of our family. We should assume that everyone who fervently tries to live the gospel makes equally careful and prayerful choices.

Joseph Smith was once asked how he was able to effectively govern so many people. He said: "I teach them correct principles, and they govern themselves" (quoted by John Taylor, in *Millennial Star* 13 [15 November 1851], 339). I believe that idea applies to this issue as well. We need to be here to support each other in the very difficult jobs we have

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in raising children in today's world, not in criticizing another because they have made a different choice than we have under different circumstances.

It has surprised me that I have experienced criticism for being a working mother from women in the Church who spent more time outside their homes on volunteer or community activities than I did at work. While the proclamation only addresses the issue of women working, the principle is the same whether time spent outside the home is paid for or not. Each of us needs to carefully consider whether our time spent away from home for any reason is in accordance with what is taught in the proclamation on the family. I might add that in our country alone, statistics support the fact that most women will have to work in their lifetimes and that more and more families require two wage earners to survive. In foreign countries like the Philippines, where my son served his mission, women are often the only parent who can get work. Women in our church, in particular, need to pull together and get beyond having the "work" issue be our primary focus when we talk about families, in order to support each other and to effectively provide leadership on the very important issues raised in the proclamation on the family.

In discussions with my sister-in-law about the part in the proclamation about fathers presiding in the home, she pointed out to me how important this directive is to families in countries like Argentina (where her children served their missions) where unemployment among men is so high and women are usually the ones who can find jobs. In those societies many men have lost their place in the family and their self-esteem and have been marginalized by their inability to materially provide for their families. This directive in the proclamation instructs men to preside in their homes independent of their ability to financially provide for their families. What a difference it makes for these families where men are taught by the proclamation that their role in the family is of paramount importance and is not confined solely to providing financially for their families. Further, the use of the word *presiding* is, I believe,

meant to invoke the idea of fathers using the priesthood effectively in the home, which is an important way that fathers are bound to their children.

Mothers are bound to their children biologically at physical birth, and this bond is what, I believe, helps women to often more effectively prioritize their children in their lives. This concept was brought home to me recently when I heard a panel of LDS men speak on the subject of balancing career and family. One of them said that he realized his life was out of control when he missed his own son's birth. I sat there thinking to myself that somehow, as a woman, it was not possible for me to miss that event. Women are, by biological necessity, required to balance their families and the other aspects of their lives, working or not. If men are to understand the message that pregnancy and childbearing teach women, men need to stop thinking of balancing family and careers as an option and come to where women are biologically driven—that balancing is a necessity.

Men in our church need to realize that the priesthood is what provides them with this opportunity to shift their thinking. Although missing the strong biological bond a woman has with her children, men are and can be equally bound to their children by effectively using their priesthood to baptize their children and bring them through this second, spiritual birth. If men have a true vision of the priesthood, as set forth in D&C 121: 40–46, they will understand that simply providing for the physical needs of their spouse and children is not the definition of whether they have met their obligations under the proclamation on the family. If they are not showing "love unfeigned" and "kindness," if their "bowels" are not "full of charity" for their wife and children, and if they are not presiding in a "household of faith" where "virtue" garnishes their thoughts "unceasingly," they are not "presiding" over their families "in love and righteousness" as the proclamation requires. Being a good provider is not a substitute for being a good husband and father.

Several years ago I was asked by a woman friend of mine in New York, who was an orthodox Jew, what I

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thought about her decision to leave our firm, give up her opportunity at partnership, and go with a smaller firm in Philadelphia where she could work part-time and spend more time with her two young daughters. She had written me an e-mail on this subject, because she knew I had spent much of my career working part-time and was raising five children. She was worried that she was making the wrong decision and sought some guidance from someone she knew would understand her situation.

I responded to her e-mail and told her that when I had decided to work in a home office part-time in order to spend more time with my children, I did so fully expecting that my career was at an end. I had decided at that time that sacrificing my career was the right thing to do. My reason was simply that there was only one period of time in your life that you have with your children, so subordinating your career for your children makes sense then. I further told her that although I had expected my decision to stay home to be the end of my career, the most surprising thing happened. The eight years I worked part-time at home turned out to be the real start of my success and of broader recognition in my field. I therefore told her that you cannot know what to expect, because, for me, the result was that I eventually succeeded in both worlds: I had time with my kids and success in my career. I told her, however, that she must go into this decision feeling fine about it whether or not her career failed. I told her that she needed to make her decision on what was right for her family today and to let tomorrow bring whatever it may.

A few months later I was in our firm's New York office when one of my women partners, hearing I was there, sought me out. This woman was not the woman to whom I had written the e-mail and, in fact, was a woman who was divorced and had no children. She told me that my e-mail had been shared among all of the younger women lawyers in the New York office. She told me how much they all had appreciated what I had said. I was truly surprised. At that moment, I realized how many people outside the Church (because none of these women were LDS or probably even knew any other LDS women besides me) are looking for leadership in putting their families first. I have come to understand this even more fully because my distinctiveness in my field as a successful woman attorney with five children has given me the opportunity to

acquire friendships with many young non-LDS women attorneys across the country who approach me for advice in balancing families with their careers and for support in making hard decisions in this area. Sometimes this includes making the decision to leave their professions to stay home with their children. My admiration for these young women friends of mine is great, because they refuse to accept the artificial and unfair constraints placed on women in my generation that resulted in many believing they had to forego a family if they wanted a career.

There is a need for leadership by real-life example in putting our families first in our working lives, and it reaches to men as well as to women. Earlier this year I had lunch with a male friend of mine from another city who is divorced and trying to raise his two young children who live with him. He said to me that his circumstances had forced him to change his perspective on his life. He finally understood how hard, but how important, it is to balance families and careers. He sought my advice and support because he knew I would understand.

The message of the proclamation on the family that "husband and wife have a solemn responsibility to love and care for each other and for their children" is not the message given in our society to either men or women. In most successful circles it is not acceptable to sacrifice career goals for your family, and yet, I believe, if either of us as husband and wife has never made a sacrifice in our career or in our personal wants in order to put our family first, we need to reexamine what our true priorities are, not in what we say but in the way we live our lives. As members of the Church, we should be leaders in this area, again, not by what we say but in the way we live our lives. In my experience I would also suggest that women are critical in creating an environment to spread and promote this message. I have spent my career working in a world of men, but in my experience women are natural leaders in the areas of family issues and can have a huge impact on the men around them, including a persuasive influence on their husbands, sons, fathers, brothers, and male colleagues at work.

The crux of the proclamation to me comes in the paragraph just referenced:

Husband and wife have a solemn responsibility to love and care for each other and for their children.

"Children are an heritage of the Lord" (Psalms 127:3). Parents have a sacred duty to rear their children in love and righteousness, to provide for their physical and spiritual needs, to teach them to love and serve one another, to observe the commandments of God and to be law-abiding citizens wherever they live.

Then following into the next paragraph: "Successful marriages and families are established and maintained on principles of faith, prayer, repentance, forgiveness, respect, love, compassion, work, and wholesome recreational activities." The home needs to be a place that focuses on relationships and service among individuals, where we as adults teach our children how to love by loving them, where we truly enjoy our children, and where our failings, which will be more apparent to our families than to anyone else, are worked on and dealt with by exercising forgiveness, respect, and compassion.

When my daughter was married last year, she had a ring ceremony after the temple ceremony designed to include the non-LDS members in her new husband's family. As part of this ring ceremony, she and her husband each read something to each other. I began to cry as she read from an entry in her journal expressing her general feelings about the concept of marriage. She had written that she wanted to be married some day because she wanted to be happy like her parents were happy. This meant so much to me because I knew at that moment that, with all of my failings as a parent, I had at least succeeded in teaching my children this one vital lesson.

As parents we realize it is of paramount importance that our children know how much we, as spouses, love and respect each other and truly enjoy each other's company. I am fortunate that I married someone with whom I can truly be an "equal partner," someone who is (like my grandfather was with my grandmother) proud, not jealous, of my accomplishments; encouraging of, not threatened by, my education and talents; and who, while sharing equally household and parenting duties, is an amazing person in his own right. Showing appreciation for our spouses is imperative. We can become so busy meeting the needs of our children that we as parents forget to focus on each other. After all, your spouse is the one other adult in the household that you expect can take care of himself or herself. My daughter's com-

ment, however, reminded me that this relationship is the key to the family and cannot be neglected. We need to make time for each other. Ideally, at the heart of a family is love between husband and wife.

Having been a stay-at-home mother and a full-time working mother, I have a taste for the difficulties of both worlds. I am fully aware of how difficult it is to compete in the working world with people who have no life outside their jobs and to meet the current expectations of clients who demand 24-hour service and sometimes, as in my area of the law, actually require 24-hour service if people's jobs are to be saved. It is a struggle, and I fail at balancing these demands as often as anyone. The tangible rewards of getting patted on the back for a job well done rather than facing a teenager who tells you how stupid you are can often spur us to avoid our more difficult, but more important, home jobs. Nor can our church jobs be a substitute to accomplishing our central jobs as parents, children, and spouses. We simply have to keep trying to do better.

For me, I have inherited my grandfather's strong work ethic and his passion for doing a job well. When this is added to the commitment that I feel to my colleagues who depend on me to generate and supervise work and to my clients who need my best efforts to solve their difficult problems, it is often hard for me to contain my working life appropriately. At times this balancing act can become overwhelming. I once had a colleague tell me to stop worrying, because it did not matter whether I was really there for my children; it only mattered that they perceived that I had been there. I could not stop worrying, however, because I could not disagree with this statement more strongly. Appearance does not replace reality, because I know (and God knows) whether I have really been there to do my job as a parent.

I have also frequently been asked by working mothers whether you ever get over the guilt you feel in leaving your children every day when you go to work. I tell them that I never have, but that I have come to realize that I would not want to lose that feeling, because it forces a constant, but necessary, reassessment of your situation. I also now have the comforting perspective that comes with being the mother of adult children who have grown up to be capable, confi-

dent, independent, and loving individuals who contribute to the world around them in so many ways.

Even in my busiest times at work, I try to let my children know that they reign paramount in my life. They know that I will excuse myself from important meetings to take their calls to help them solve their latest teenage problems, that I will reschedule even court hearings to be with them at important events, and that I will stay up all night, if necessary, to do for them what my stay-at-home mother did for me in assisting them with a school project, making a fairytale prom dress, baking treats for birthday celebrations, or establishing and carrying out important holiday family traditions. Some of my adult children's favorite childhood memories come from accompanying me to work seminars, where I was able to combine work with family and spend time with each one of them individually in some interesting and memorable locations. What helps me is that I honestly enjoy my children. For me, being with my children is not about fulfilling an obligation. It is about treasuring the time I have with them, because, particularly in my situation, I do not take my time with them for granted.

I am also fully aware of the isolation and difficulties that are experienced by stay-at-home mothers, where the job is never-ending and at times very tedious, the results are long-term, and the acclamations are few. Being told you are the Meanest Mom in the World is not as fun as receiving an award for being Employee of the Month. It is not enough for us in the Church to pat women on the head and assume that, of course, they are happy because they get to stay home with their children. We need to reach out to each other and recognize the stresses that come with this job, try to alleviate those stresses, and show true gratitude and respect for women (and sometimes men) who do this difficult job well.

A couple of years ago, my sister-in-law, a talented attorney who decided to become a stay-at-home mom after her fifth child was born, was taken to lunch for her birthday by one of her brothers. In the course of their discussions, he basically asked her what she had done of importance in the world. She told me that when he asked this question she was driven to think about what she had been

doing every day since she had quit work—doing laundry, driving kids around, listening to teenagers, picking up messes, cooking yet one more meal—and she felt totally worthless. Yet, what is of more importance in this world than loving our children and raising them well? It is not a glamorous job, but that does not lessen its importance. Our Heavenly Father does not ask us to call Him Mr. President or the CEO; He asks us to address him as our Father. This is what is most important to Him. He does not credit the design and assembly of this beautiful world and this amazing universe as His most important work. Rather, in Moses 1:39, He says, "For behold, this is my work and my glory—to bring to pass the immortality and eternal life of man."

Let me end with one final thought. The proclamation on the family is meant for us all, whether we are married, single, divorced, or widowed. When we think of a family only as what we would term a "traditional family" with two parents and children, however, we sometimes use the proclamation on the family as an excuse to fail to reach out to those in the Church and in our circle of influence who do not fit this mold. Divorced and widowed parents need our love and support, not our intentional or unintentional ostracism. Single friends and couples who are not blessed with children need the opportunity to bless the lives of children around them and to be blessed by that association in return. In striving to focus on our families, we must not become too insular. We need to make our families a building point for blessing the lives of those around us and for being blessed by our associations with others in return. The proclamation on the family is fundamentally about the importance of relationships, which is the key part of a family, whether the family consists of a husband and wife, a parent and children, brothers and sisters, or aunts, uncles, nieces, and nephews. We need to use it to inspire us to love one another, to teach one another by our examples, not our approbation, and to constantly reexamine our priorities and better our compliance with its precepts.

Annette W. Jarvis, '79, former chair of the Salt Lake City Chapter of the J. Reuben Clark Law Society, is a shareholder in the Salt Lake City law firm Ray, Quinney & Nebeker.



DELETED




Kennedy's Birthday 14



Friday, May 1st 1926
Wind 40 miles per hour
I have had a very busy day
and have been taking
a lot of notes. I have
also been thinking about
the things that I have
done and how I have
managed to do them.
I have been very busy
and have not had time
to write much. I have
been thinking about
the things that I have
done and how I have
managed to do them.
I have been very busy
and have not had time
to write much. I have
been thinking about
the things that I have
done and how I have
managed to do them.

True worth is
In doing, not in saying,
Some little good, that goes by,
Of great things, that are in dreaming
That pass by and by.





THE Other Side OF Time

» by Sheila K. McCleve «

THIS SPEECH WAS GIVEN AT THE J. REUBEN CLARK LAW SCHOOL
CONVOCATION IN THE PROVO TABERNACLE ON APRIL 28, 2006.

President Tanner, Dean Worthen, Sister Maxwell, other honored guests, faculty, friends, family, and members of the Class of 2006, it is an honor and a blessing for me to be asked to speak to you at this significant time of these law students' lives. Thank you for extending me this opportunity. I hope that in the short time that I spend speaking to you this afternoon, I will give you encouragement, perhaps, for some-time ahead when you might need to remember what graduating from the J. Reuben Clark Law School at BYU gave you.

PHOTOGRAPHY BY BRADLEY SLADE

First, let me say to the soon-to-be graduates: Congratulations! This is an awesome time. It really is one of those moments of your lives that you will always remember, and it certainly represents the years of hard work, dedication, and sacrifice that you each have given to get this far. Sometime when you look back and reminisce on this time, you will have a memory like a camera still shot of what happened at your graduation and what that represented to you.

Graduation is like other moments in time: the expected and the unexpected. I can remember where I was on 9/11. I can remember where I was when JFK was shot. There are other moments in time—baptism, leaving on a mission, getting married, your first job, the first case that you win, becoming a partner—that we mark. These are significant moments that mark and measure and give us that opportunity to see where we are in life. This graduation is one of them. You certainly are to be congratulated and extended great respect and acknowledgment for what you have done. We do that by honoring you at this significant moment of time today.

I was here three decades ago, sitting where you sit. I was 12 years old. That's my story and I'm sticking to it! That's not exactly true I guess. I should say I really wasn't 12. I was 12 when I got appointed to the bench, so you can only imagine how young I was when I came to law school.

Actually, I think that I am here today for a couple of reasons. One, because there is a relationship between us. You know, law is about relationships between people. Ours is that I'm your predecessor and you are my successors in some way. I suppose that means I'll predecease you, and you'll be very successful. Something like that. There is that relationship that brings me here now. There is also a viewpoint from the other side of this time that might be another reason that I'm here today.

A viewpoint from the other side of time might give you something helpful as you pass through the times ahead of you. So, I want to talk about time just a little bit. Now some people just use watches, you know, to keep track of where they are so they don't go over their suggested time to speak; but I have an hourglass. I have brought an hourglass to show you because we are talking about a moment in time in your lives today that is significant and that you mark for the rest of your

lives. That is one aspect of time. Another aspect of time is the fact of its movement between those marking periods. You are not close enough to see the sand particles, and I can't see the individual sand particles either. Even if I had really good glasses, I couldn't see the individual particles that are going through the hourglass. But you and I can be aware, and we are aware, that the sand is going through the glass. As a result of that, we can tell that time is passing.

Time is a great blessing, I think, to us. It gives us the opportunity between the space of birth, which is a marking point in time, and death, which is another marking point in time, to prove ourselves and to change ourselves. So we have this great opportunity in time to become who we want to become. Really, the key to it is to choose to spend our time between these marking points in ways that will make a difference.

I bet that when you came in today, as you marched in the processional, your parents and grandparents and those that love you looked at you much the way that Tevye and Golda looked at their children at the wedding in *Fiddler on the Roof*.

*Is this the little girl I carried?
Is this the little boy at play?*

*I don't remember growing older
When did they?*

*Sunrise, sunset
Sunrise, sunset
Swiftly flow the days
Seedlings turn overnight to sunflowers . . .*

*One season following another
Laden with happiness and tears.*
["Sunrise, Sunset," *The Fiddler on the Roof*, 1964]

Time seems to have passed as quickly as that for me, as it will also for you. I was just where you are in some respects, and time has passed.

Time is a great blessing because it gives us the opportunity to forget and the ability to remember. We can forget the things that were painful. We can remember the things that were good. If we look back in time, we can choose to have understanding. If we look forward in time, we can choose to have hope for the future. That is what you all have now—hope for the future. The key to the fulfillment

of that hope lies, as I said, in how you choose to spend your time. Remember these lines from "Improve the Shining Moments":

*Improve the shining moments;
don't let them pass you by.
Work while the sun is radiant;
work, for the night draws nigh.
We cannot bid the sunbeams
to lengthen out their stay,
Nor can we ask the shadow
to ever stay away.
Time flies on wings of lightning;
we cannot call it back.
It comes, and passes forward
along its onward track.
And if we are not mindful,
the chance will fade away,
For life is quick in passing,
'tis as a single day.*
[Hymns, 1985, no. 226]

"[Now] is the time for men to prepare to meet God; . . . [This is the time in] this life . . . for men to perform their labors" (Alma 34:32). So don't put things off. You will have these moments in time when you make choices that will make a difference. At each moment of those choices, opportunities will be taken or they will fade away.

I think if there is one piece of advice that I can give you today, one thing I hope you will take with you and remember and cherish throughout your lives, that one thing is not about time—it is about timelessness. It is about valuing the things that are timeless first and most.

VALUE THE THINGS THAT ARE TIMELESS FIRST AND MOST

Maybe I can give you a couple of examples as well as a couple of suggestions about how to value the things that are timeless first and most. Because I really do believe that where your heart is, your treasure is, and that in the end you really do get what you want. So it is critical for you to realize what you want. Making choices will come at small moments of time, even subtle turning points. In later years when you have to balance the business trip or the demanding client against your daughter's soccer game or the Scout camp, you're going to have to

8, 1941

to follow

Dorothy No
Winslow McPherson
Take Nuptia
Vows

Miss Dorothy
daughter of Mr. and
Mrs. Hale, became the
bride of Mr. James
McPherson, Episcop
an altar decorated
with flowers and
quint played
ride. given in
of gardenias. by
Miss Susan
best man and
other and

on in the
service of
left for
they
The
y blue
d with

Saturday, August 9, 1941

Handwritten cursive text on a page, partially obscured by a pen and a watch.



One thing I
hope you will take
with you:
Value the things
that are
timeless first
and most.

decide what you value most. Now, at different times what you choose will be different. But it is always important, I think, that you keep in mind what you value most as you make those choices. Your choices will be the evidence of your values.

I'm going to give you three examples of judges I have known or who I have worked with, and they're all good, wonderful men. They're all also Latter-day Saints.

One was a convert and came to the Church and was very active and involved and got really busy in life. He was respected in his career, respected by the bar, and very suc-

cessful. He went onto the bench a little later in his career. He spent all of his time at work. He loved to work. He had been a wonderful bishop. He came to the bench, and he did the same thing. He worked. He took extra cases. He stayed nights. He worked all the time. He loved to be in that position and to have influence. His wife left him. He left the Church. He remarried and has a new, young stepfamily, and he still works, taking extra cases and doing things for the bar or the bench that are very productive and contributive to the community.

The second is a judge who came to the bench at a relatively young age and wanted to be very successful and also to make a lot of money to be able to support his family well. He was working every way he could to figure out how, legitimately, to make a good living. He decided to leave the bench, because, although he liked being a judge, he found a better opportunity to make a lot of money. He went into business and made a lot of money. He's very wealthy. He does quite well. He is well regarded in the community, and he is a likeable person. He also ended up divorced. He did not leave the Church. He did remarry and is still doing quite well financially.

The third is a judge that never took himself too seriously. He loved to do work on the bench and was devoted to his wife. She was devoted to him. He loved his children and the people he was called to serve. As a Scout leader he would take the time to bring his Scout troop over to the court and show them how the court worked. He talked to them about the law. He joked with people and was quite popular.

All of these judges, let me emphasize, are good peo-

ple, good judges, and exceptional people. I don't, in reference to them, mean to disregard the many complex factors that affect people's lives. And I wouldn't want to judge any of them. But I think for purposes of illustration, I submit to you that these judges really are where they want to be, that they've gotten what they want out of life. One has position and work, one has money, and the third one, who retired early (and didn't wait to get all of his retirement benefits), left two weeks ago with his wife on a mission to serve the Church on a small island off the coast of Africa. At this point, it seems that each has chosen what they value.

Education is the power to think clearly, the power to act well in the world's work, and the power to appreciate life.

[Brigham Young, quoted by George H. Brimhall in "The Brigham Young University," *Improvement Era*, July 1920, 831]

The mission of Brigham Young University is:

to assist individuals in their quest for perfection and eternal life. To this end, BYU seeks to develop students of faith, intellect, and character, who have the skills and the desire to continue learning and to serve others throughout their lives.

["BYU Mission Statement," approved by the BYU Board of Trustees November 4, 1981]

You know that motto you see when you approach BYU: "Enter to learn; go forth to serve." But the truth more accurately stated is that you enter to learn and to serve, and you go forth to continue to learn and to serve. That is what an eternal education is. President David O. McKay said:

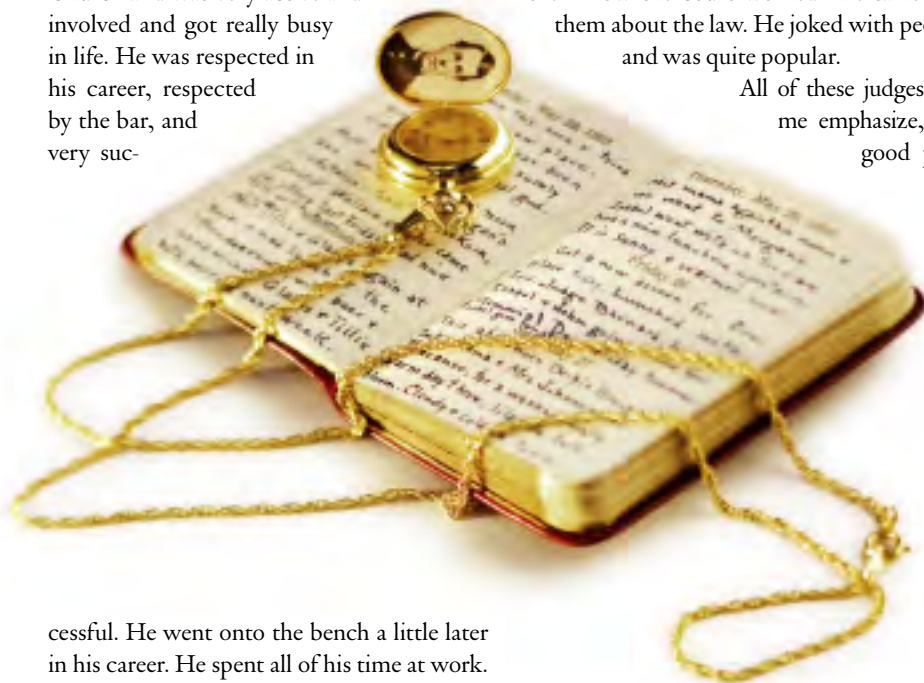
True education seeks . . . to make men and women not only good mathematicians [or in your case lawyers], proficient linguists, profound scientists, or brilliant literary lights, but also honest men, combined with virtue, temperance, and brotherly love.

[David O. McKay, "Why Education?" *Improvement Era*, vol. 70, no. 9 (September 1967), 3]

And Ernest Wilkinson said: "If most institutions of higher learning aspire to be only communities of scholars, we are privileged to be also a congregation of disciples."

At the establishment of the Law School, Marion G. Romney said:

The Board of Trustees, in establishing a school of law, did so that there may be an institution in which



you, the members of this class [speaking of me] and all those who shall follow you [speaking of you] may “obtain a knowledge of . . . the laws of . . . man” in light of the “laws of God.”

So we hope what BYU and the J. Reuben Clark Law School have given you is an eternal education, an increased strength of character, and maybe a glimpse, affirmation, or inkling of your calling, of your individual purpose, in God’s plan. Perhaps you have discovered something about what you can do, how you can serve, and who you are. From the dedicatory prayer of the J. Reuben Clark Law Building in 1975, let me quote Marion G. Romney again. He said:

Help the lawyers trained in this law school to remember that they are to be the guardians of the Law Isaiah spoke of three thousand years ago, when he said: “Out of Zion shall go forth the Law, and the word of the Lord from Jerusalem.”

So remember who you are.

The second thing I want to offer as an observation is to remind you that the law is adversarial and so is life. Life is adversarial; there is opposition—opposition in all things. Don’t forget that. In my years on the bench I have seen every type of inhumanity, depravity, weakness, dishonesty, and sin that you can imagine—and some you’d never imagine. I’ve seen law schoolmates, elementary schoolmates, and all other levels of schoolmates, friends, neighbors, Church members, bishops, stake presidents, people in high places, and well-known members of the community who have all come before me as criminal defendants. We are all capable of great good, and we are all capable of evil. In some moments, when I have felt my own incapacity, along with all of this I have thought of the scripture “For God so loved the world, that he gave his only begotten Son” (John 3:16). There are moments, I confess, when I have wondered why they bothered. This life is a fight, and there are hard, ugly, and very incredible things that are happening all around us, things that I never would have imagined had I not seen them.

Now you may go into another kind of law that doesn’t involve as much criminal work as I do. I know that none of you are this way, but I hope that you will not become like the bomber pilot on an episode of “MASH”

who saw himself as removed from the fight. Hawkeye was at the mobile hospital putting together the bodies and trying to keep life alive, and this bomber pilot was a fresh-faced kid who pretty much treated his job in the war as nine-to-five. He’d fly with his load, which was bombs, and drop them at ground targets, come back, and enjoy his happy, party-filled life when he returned. He felt pretty good about it. He just happened to get slightly injured when his plane was shot down. So he came to be at the MASH and was talking to Hawkeye about how easy the war was for him. Hawkeye created an experience for him that taught him a lesson about the lives he was daily destroying by the bomb dropping and what it meant to be at war. Don’t be so naive as that young man to think that what you will be doing in law and in life isn’t involved in the real fight of the world, because it is. You will be affecting people’s lives whatever you do. Law is about relationships between people.

Law—and life—is a fight, a battleground. The fight is real, and you are right in the middle of it. I quote from Ephesians 6:12: “For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.”

You are in a profession that is adversarial, and you will be fighting the fight, and we believe and expect you to be able to do it. Don’t forget the battle is real. Continue to learn, to serve, and to remember and appreciate what you have been given here to enable you to do it.

I especially hope that you will remember who you really are. As Marion Romney said more than 30 years ago, you are “the guardians of the Law Isaiah spoke of three thousand years ago, when he said, ‘Out of Zion shall go forth the Law, and the word of the Lord from Jerusalem.’”

Also, I hope you won’t forget who you serve. C. S. Lewis wrote in *The Weight of Glory*:

It may be possible for each [of] us to think too much of his own potential glory hereafter; it is hardly possible for him to think too often or too deeply about that of his neighbour. . . . It is a serious thing to live in a society of possible gods and goddesses. . . . It is in the light of these overwhelming possibilities, it is with the awe and the circumspection proper to them, that we should conduct all our dealings with one

another, all friendships, all loves, all play, all politics. There are no ordinary people. You have never talked to a mere mortal. Nations, cultures, arts, civilization—these are mortal, and their life is to ours as the life of a gnat. . . . Next to the Blessed Sacrament itself, your neighbour is the holiest object presented to your senses.

[C. S. Lewis, *The Weight of Glory and Other Addresses* (New York: Macmillan, 1949), 14–15; emphasis in original; see also Mosiah 2:17]

Remember who you are, who they are whom you serve, and especially and finally, remember in whom you trust. I particularly like a quote from Mother Teresa that sets a high bar for Christian behavior. I guess I like it because it’s the same advice my father gave me and has always stood me well in those moments where everything seems to be a struggle, when life is an overwhelming fight. Mother Teresa’s statement reminds me of my father’s advice. She says this:

People are often unreasonable and self-centered. Forgive them anyway. If you are kind, people may accuse you of ulterior motives. Be kind anyway. If you are honest, people may cheat you. Be honest anyway. If you find happiness, people may be jealous. Be happy anyway. The good you do today may often be forgotten tomorrow. Do good anyway. Give the world your best, and it may never be enough. Give your best anyway. For you see, in the end it is between you and God. It never was between you and them, anyway.

Let me again say to you, “Congratulations!” This is an incredible moment in your lives. Let me extend to you from the other side of time all good wishes for happy and productive and faithful lives. The world and eternity await you.

Sbeila K. McCleve, ’76, is a judge in the Tbird District Court of Utah.

BARREN
OF
PARADISE

NO PERSONAL ITEMS
SUCH AS PURSES OR
CONTRABAND ALLOWED
BEYOND THIS POINT

NO
SMOKING
BEYOND
THIS
POINT

leading the way

BY JANE H. WISE



photography by bradley slade



Keith Hamilton, '86, chair of the Utah Board of Pardons and Parole, sits facing the young man garbed in prison t-shirt and white pants in a hearing room at the Utah State Prison. The prisoner has been here before. Last time, the board recommended his release, but now he is back, picked up for possession of marijuana and use of methamphetamines. This setting is a parole violation hearing where Hamilton will first listen to him and then ask questions. Family members may also speak, and members of the public can write letters to the board. Hamilton will make another recommendation after the hearing; then other board members will review a report of the hearing, Hamilton's recommendation, information about the crime, and progress reports from the prison. A decision is finally made when at least three members of the board agree on what to do. ||| Hamilton starts the hearing, addressing the inmate with "Please raise your right hand, sir." He always addresses the prisoners with respect, saying "please" and calling them "sir" or "ma'am." The mother of a prisoner appearing before Hamilton sent him a letter saying that his hearing was the only time her son could remember someone calling him "sir" and saying "please" in the criminal justice system. "Thank you for showing him respect," she wrote. ||| The young man admits he was using drugs while he was on parole because of the "stress" of the new situation. Hamilton speaks clearly to the prisoner: ||| "You need to find another way to deal with stress." ||| "Do you realize that prison isn't the best place for you to be?" ||| "You have to deal with these problems." ||| "It's your call what happens from now on. Our job is to protect society." ||| "Ask for divine assistance." ||| Hamilton believes that God has guided him to his current positions: leading a board determining the fate of Utah prisoners and serving

on Governor Jon Huntsman Jr.'s cabinet. He often asks the men and women who appear before him to search for help from a higher source—something outside themselves that can broaden their perspective.

The next hearing of the morning is also for a parole violation. This 22-year-old man was also picked up with illegal drugs. Hamilton tells him, "You need to get your act together. We have to make a choice on how to use the state's limited resources. Should we bet on you again?"

"The answer will always be *you!* Look yourself in the face and say, 'I need to change.' It's got to come from you and not from anybody else."

Two hearings finished, and three more to go. What Hamilton says to each prisoner is different. He responds to them individually, sometimes using humor, sometimes lecturing, and sometimes drawing a hard line. All of the five cases involve people who are addicted to drugs.

"It's your life, man. If you don't care, why should the state of Utah care? Using drugs is going to kill you. It's time for *you* to make the decision."

"Find a source beyond yourself. Stop victimizing yourself."

"How are you going to succeed if you don't have a plan? Hopes aren't plans. You've got to have something concrete."

"You are a human being, and I care about you."

It's the last hearing of the morning, and a young woman is up for her first hearing before the board. Her mother and sister are ushered in. They are caring for the inmate's three young children while she is incarcerated. They sit in the back of the room in a section lined with padded folding chairs with boxes of tissues set on every other seat. They can see her but are not allowed to speak to her unless given permission by the hearing officer.

"Do you realize you are leaving your responsibilities on your family? Your mother's been crying the whole time we've been here in this hearing. Start your new life by recognizing what other people have done and are doing for you. Think of those people instead of yourself. Are you thankful for what they are doing for you? Write your mother a letter, and let her know you are grateful for what she is doing. It's your call what happens from now on. They can't do it for you."

Hamilton gives the women a chance to speak to each other. "The kids want me to tell you they love you," says the mother. "I love you, Mama," says her daughter. They gaze hungrily at each other. Small details are precious. "Your hair is getting so long, Honey," says the mother as she leaves.

Hamilton says that if the prisoners want to change, the board will give them a chance. That is his mantra: change = chance. The Utah Board of Pardons and Parole is in a unique position to give prisoners a chance. Utah judges impose indeterminate prison terms, such as zero to five years, five to fifteen years, or ten years to life. It is not the trial judge who determines how many years within that range will be ultimately served; it is the board. The five-member board determines each prisoner's actual length of stay behind bars, making about 14,000 of these decisions each year. The board literally holds life in its hands. Different from any of the other 49 states, only Utah's board can commute a death sentence to life without parole.

Three of the five-member board are alumni of the J. Reuben Clark Law School: Keith Hamilton, '86, chair; Curtis L. Garner, '84, vice chair; and Clark A. Harms, '90. In addition, John A. Green, '84, is administrative coordinator. The two other members of the board are Cheryl Hansen and Jesse Gallegos.

The board wants Utahns to understand how it works and envisions better communication with victims, their families, and inmates about that process. But the board's primary purpose is casting votes in the process that decides the fate of prison inmates. Each member of the board casts a single vote, and it takes a three-member majority to decide a case. It is a system that has been working in Utah in some form or other since 1913.

Three years ago Supreme Court Justice Anthony Kennedy gave a speech raising serious concerns about the nation's overreliance on incarceration as a criminal sanction. He concluded that resources were being mispent, punishments were too severe, and sentences were too long. In response to that speech, the American Bar Association put together a task force called the Justice Kennedy Commission on Sentencing. The next year it presented recommendations to the bar association concluding that society

would conserve scarce resources, provide greater rehabilitation, and decrease the probability of recidivism and the likelihood of restitution if it used alternatives to incarceration. It recommended that sentencing systems provide appropriate punishment without overreliance on incarceration. It recommended flexible sentencing.

Those kinds of recommendations have been in force in Utah for over 90 years. With the board's experience, knowledge, and insight, it will continue to lead the way for flexible sentencing systems.



From left to right: >>

Clark A. Harms, '90;

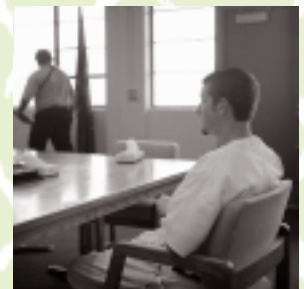
Curtis L. Garner, '84;

Keith Hamilton, '86;

John A. Green, '84.



If the prisoners want to change, the board will give them a chance. It will continue to lead the way for flexible sentencing systems.



Is the Meaning of Life Academic?

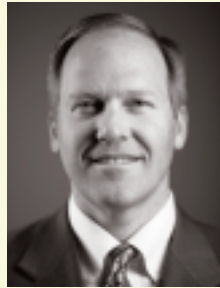
The following excerpt is taken from a speech given by Tony Kronman, former dean of Yale Law School, to BYU law students on February 13, 2006.

BROADLY SPEAKING, American higher education might be divided into three historical phases. In phase one, every college was the adjunct of a church. College and church belonged together; they were inseparable twins. In phase two, church and college drew apart, but the college continued so long as the tradition of secular humanism retained its vitality and credibility. Colleges continued along with the churches to view themselves as having some responsibility to address the question of life's meaning and to bring their students into a helpful engagement with it. In phase three, the phase that we are now in today, colleges have abandoned that commitment altogether, and the result has been that the responsibility now lies entirely in the hands of our religious institutions. They will never abandon it; how can they? It would be inconsistent with their nature as institutions of a religious kind. But I believe it would be better not just for our colleges but also for the culture at large if the colleges were to reclaim their voice and become again not so much a competitive center of instruction in the meaning of life but at least another and different one. It would make our culture a richer and better place than it is today. So, to the question posed by the title of my talk, "Is the meaning of life academic?" I certainly hope so.

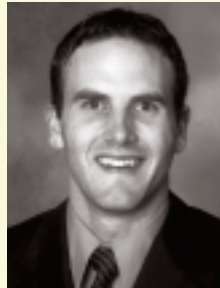


NEW PERSONNEL

Robert T. Smith, '91, is the new managing director of the International Center for Law and Religion Studies. Professor Smith previously served as executive vice president and general counsel to CaseData Corporation in Bountiful, Utah, where he specialized in electronic discovery matters. He has worked at the law firm of Kirton & McConkie in Salt Lake City, as well as with large law firms in Chicago and Washington, D.C., and as a CPA for Deloitte & Touche in California and Washington, D.C.



Shawn G. Nevers, '05, is a new research librarian at the Howard W. Hunter Law Library. He and his wife, MaryLynn, and their four children recently moved from Illinois, where Shawn just completed a master of library science at the University of Illinois at Urbana-Champaign.



FACULTY NOTES

Mary Hoagland and Carl Hernandez, '92, have been promoted to senior faculty administrators.



Professor John Fee has obtained continuing faculty status.



James Rasband, with James Salzman and Mark Squillace, has coauthored the casebook *Natural Resources Law and Policy 2004*. The teachers manual for the casebook was published this past fall.

Law School professorships have been awarded to the following individuals:

- Jim H. Backman ➤ STEPHEN L RICHARDS PROFESSOR OF LAW
- C. Douglas Floyd ➤ FRANCIS R. KIRKHAM PROFESSOR OF LAW
- Michael Goldsmith ➤ WOODRUFF J. DEEM PROFESSOR OF LAW
- James D. Gordon III ➤ MARION B. AND RULON A. EARL PROFESSOR LAW
- H. Reese Hansen ➤ HOWARD W. HUNTER PROFESSOR OF LAW
- Stanley D. Neeleman ➤ TERRY L. CRAPO PROFESSOR OF LAW
- Cheryl B. Preston, '79 ➤ EDWIN W. THOMAS PROFESSOR OF LAW
- Lynn D. Wardle ➤ BRUCE C. HAFEN PROFESSOR OF LAW
- Richard G. Wilkins, '79 ➤ ROBERT W. BARKER PROFESSOR OF LAW
- Gerald R. Williams ➤ MARION G. ROMNEY PROFESSOR OF LAW
- Kevin J Worthen, '82 ➤ HUGH W. COLTON PROFESSOR OF LAW

Law Alumni Fill Church Leadership Positions

Marcus B. Nash, '84, and Stanley G. Ellis, '76, have been called as General Authorities of the Church.

Elder Nash was an Area Seventy in the North America Northwest Area when he was called to the First Quorum of the Seventy. A partner in the Seattle law firm Stafford Frey Copper, he graduated from BYU with a bachelor's degree in international relations before receiving his law degree. He has served the Church as a stake president, bishop, ward Young Men presi-



dent, elders quorum president, gospel doctrine teacher, and full-time missionary. Elder Nash is married to Shelley Hatch Nash, and they have five children.

Elder Stanley G. Ellis was serving as an Area Seventy in the North America Southwest Area before his call to the Second Quorum of the Seventy. He earned a degree in governmental



studies at Harvard University and then graduated with the first class of the BYU Law School. Elder Ellis is the chief executive officer of First Meridian, Inc., an insurance and financial services company in Houston, Texas. He is a former Church mission president, stake president, counselor in a stake presidency, high counselor, counselor in a bishopric, elders quorum president, and ward Young Men president. Elder Ellis and his wife, Kathryn Kloepfer Ellis, have nine children.

♦ ♦ ♦

Katherine Pullins, '88, associate dean of Internal and Student Relations at the Law School, has been called as a member of the Relief Society



General Board. Dean Pullins has served as assistant dean of Student and Alumni Relations as well as director of Career Services at the Law School.

♦ ♦ ♦

Five alumni of the J. Reuben Clark Law School began three-year services as mission presidents this past July. Called by the First Presidency of the Church, they are accompanied by their wives and, in some cases, their children.

Gary B. Doxey, '84, serves in the Mexico Mexico City South Mission, where his wife,



Deborah, and six children have joined him. Prior to the calling, President Doxey was managing editor of the International Center for Law and Religion Studies at the Law School, where he is a professor of law. He previously served as chief of staff under Utah Governor Olene S. Walker and as general counsel to Utah Governor Michael O. Leavitt. A professor of history as well as law at BYU, he also has taught at the University of Utah. Besides his BYU law degree, he has a PhD from Cambridge University.

Clayton F. Foulger, '77, is president of the England London Mission. He and his wife, Marla, are the parents of six children. Their 17-year-old son, Price, accompanies them.

President Foulger has been active in commercial real estate in the Washington, D.C., metropolitan area for more than 25



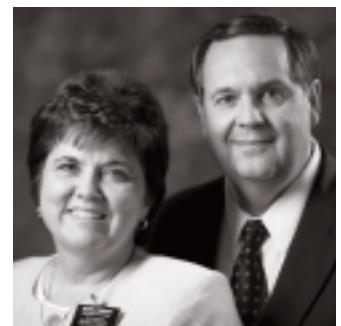
years. In 1978 he joined the Foulger-Pratt Companies in Rockville, Maryland, where he provides management and legal oversight for the development of large building projects. He holds an accounting degree as well as a law degree from BYU.

Michael A. Harrison, '79, presides over the Russia Rostovna-Donu Mission, and is joined



by his wife, Clyda. They have three children. A retired attorney, President Harrison is a former bishop of a BYU student ward and stake president.

William H. Stoddard, '76, serves in the Illinois Chicago North Mission, with his wife, Carol. They are the parents of



four children. An attorney with Albright, Stoddard, Warnick & Albright in Las Vegas, Nevada, President Stoddard has practiced in the areas of litigation, commercial law, real estate law, and environmental law. He

earned a BA in economics at BYU prior to receiving a JD with the first graduating class of the J. Reuben Clark Law School.

Craig B. Terry, '77, accompanied by his wife, Candice, is president of the Portugal Lisbon



Mission. They have three children, two of whom are married (Tiffany and Travis). Their youngest son, Tyler, just returned from serving a mission and now attends BYU.

President Terry is a shareholder in the real estate, banking, and finance department of Parsons Behle & Latimer in Salt Lake City, Utah. He has concentrated his practice on real property, acquisition, development, financing and leasing, zoning, and land-use law.

SAVE THE DATE

General Conference Reception
October 7, 2006

◆ ◆ ◆
Alumni Weekend
October 19-21, 2006

◆ ◆ ◆
Orrin Hatch Distinguished Trial Lawyers' Conference
November 11, 2006

Michael R. Dreeben Receives Rex E. Lee Award

Michael R. Dreeben was presented with the Rex E. Lee Advocacy Award at the J. Reuben Clark Law Society Conference in Washington, D.C., on February 17, 2006. ||| An adjunct professor of law at Duke University, Dreeben has served as deputy solicitor general with the U.S. Department of Justice since 1994. His principal responsibility is the review of criminal appellate cases, including briefs filed by the United States in the U.S. Supreme Court. Professor Dreeben has argued more than 45 cases before the Supreme Court since 1988, when he became assistant to the solicitor general. ||| Dreeben holds a BA degree from the University of Wisconsin and an MA from the University of Chicago. He received a JD degree from Duke Law School in 1981 and served as law clerk to Judge Jerre S. Williams of the United States Court of Appeals for the Fifth Circuit.



Michael R. Dreeben

Deputy U.S. Solicitor General and 2006 recipient of the Rex E. Lee Advocacy Award



Cree-L Kofford

General Authority Emeritus



Maureen Mahoney

2005 recipient of the Rex E. Lee Advocacy Award

H. Peter Mueller Retires

H. PETER MUELLER'S PROFESSIONAL LIFE AT BRIGHAM YOUNG University has paralleled the planning, completion, and growth of the J. Reuben Clark Law School. After 35 years at the Law School—years of hard work, innovation, and expansion—he retired on August 31, 2006. It was the end of an era.

Peter's life in the West began with his family's escape from East Germany to West Berlin in 1950, when he was six years old. It is a saga of miraculous connections leading them to a new life. They spent a year in a Berlin refugee camp before his parents were flown to West Germany and he and his three-year-old sister were transported by train to a new camp. The family wasn't reunited for four months. In the meantime, Peter found food and shelter for himself and his sister, and he earned money by selling scraps of scavenged brass shrapnel as well as buckets of snails to the French soldiers. In 1952 the children and their parents were baptized by Mormon missionaries in West Germany, the first connection to a new life in the West.

The family left Germany in 1963 for the United States, coming to New York City by ship, under sponsorship of a former German missionary. They arrived in Salt Lake City after a long bus trip, with no money, no jobs, no English, and no place to live. As they stood at the bus terminal, a former missionary from Heidelberg walked past, recognized them, and took them home. Peter got a job driving a truck and met a young woman at a stake dance, Nadine Wilcox Givens, who helped the young German immigrant with English and introduced him to life in the United States.

Peter joined the U.S. Army in 1964 and was sent to Orleans, France, where he met his future wife, Marjorie Farnsworth. They married and came to BYU shortly after Peter was discharged in 1967. Peter earned his bachelor's degree in German literature and his master's degree in library science and was working at the Lee Library in 1971 when President Wilkinson asked him to work on preliminary planning for the law library. He was sent to the Tarlton Law Library in Austin, Texas, to learn the ropes under preeminent law librarian Roy Mersky. Years later Roy and others from major law schools came to BYU to learn from Peter how to automate a law library.

In 1972 Peter began ordering books for the law library to be housed in the St. Francis School, temporary home to the new law school. Receiving a law degree in 1983, he has been assistant law librarian, associate law librarian for technical services, associate law librarian in charge of operations, deputy law librarian, and information systems and business manager, overseeing everything from computer hardware, technology, and support staff to operational budgets. At the time of his retirement, he was manager of information systems/assistant to the dean.

Here are some reminiscences from H. Peter Mueller about his life along the way.

We thought Rex Lee was a Chinese man from northern Arizona. He wasn't afraid to be innovative and to trust his staff. I would go to him with ideas, and he would say, "That sounds great, Peter; where do I sign?"

The Law School was started with a manual Adler typewriter—one I had "borrowed" from the Harold B. Lee Library.

When we started classes at the old Catholic school, St. Francis of Assisi, the students called it "St. Reuben's." The power supply was inadequate, the boiler room leaked, the roof leaked, and the individual beaters leaked.

The first thing the library purchased was the National Reporter System in three sets. Soon the 18-wheeler started to arrive with our new books. We had to set up shelving that we obtained in large part from the navy out of Annapolis. We worked 12 hours on and 12 hours off to set up the shelving.

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@lawgate.byu.edu.



Clark Memorandum

J. Reuben Clark Law Society

J. Reuben Clark Law School

Brigham Young University

