

# LDS ATTORNEYS: APPROACHING THE MODERN ERA<sup>1</sup>

Professor James H. Backman

## Scripture References:

- Doc. & Cov. 93:53
- Doc. & Cov. 88:78-79
- Doc. & Cov. 84:106
- 3 Nephi 13:19-21; 33

## Selected Reading Material:

David H. Yarn Jr., *Young Reuben: The Early Life of J. Reuben Clark*, BYU Press, Provo, Utah, 1976.

W. Dee Halverson, *Stephen L. Richards, 1879-1959*, Heritage Press, 1994, located at Special Collections in the Lee library at Brigham Young University.

F. Burton Howard, *Marion G. Romney: His Life and Faith*, Bookcraft, Salt Lake City, 1988.

Jeanne Grow, *Stewart L. Grow: Potter at the Wheel of the History of Mormon Lawyers*, unpublished, 1978, located at the law library at the J. Reuben Clark Law School, Brigham Young University.

Carl S. Hawkins, *The Founding of the J. Reuben Clark Law School*, BYU Studies, Provo, 1999.

Rex E. Lee, "Thoughts After 15 Years," *Clark Memorandum* (Spring 1990).

Woodruff J. Deem & Glenn V. Bird, *Ernest L. Wilkinson: Indian Advocate and University President*, BYU Press, Provo, Utah, 1982.

## Notes and Commentary

### Introduction

---

<sup>1</sup> Professor James H. Backman from Brigham Young University Law School is the author of this article. Joseph Prete, a law student at Brigham Young University, has provided excellent help as research assistant in preparation of these lesson materials.

The formation of the state of Utah in 1896 marked the beginning of a new age in the history of LDS attorneys. Being a state meant, among other things, less federal interference in local matters. Furthermore, with polygamy now in the past, outside government officials were more willing to let the Mormons govern themselves. Gradually, early Church negativism toward the law began to fade and, more and more, law came to be seen as a legitimate, worthwhile profession, quintessential to a free society.

James Henry Moyle played a pivotal role in this development.<sup>2</sup> In 1873, Moyle went East to law school, even though his stake president felt that it would lead him to hell.<sup>3</sup> As Moyle returned from law school stronger and more committed to Church service, the myth that the study of law necessarily leads to apostasy<sup>4</sup> was shattered.

Over the next few years, dozens of young Mormons followed Moyle's example and went East to study law. Throughout the 1890s there was literally a Mormon community at the University of Michigan Law School.<sup>5</sup> Meanwhile, several others attended law school at Columbia and at the University of Chicago. The demand for a legal education became so prevalent among Mormons that the University of Utah founded a law school in 1907. Former dean, Samuel Thurman, estimates that, since the founding of the law school, at least fifty percent of its students have consistently been Mormon.<sup>6</sup>

The increasing number of LDS attorneys has been a great asset to the Church. For instance,

---

<sup>2</sup> See "The Early Church and the Legal Profession," *LDS Perspectives on Law*.

<sup>3</sup> Gene A. Sessions, *Mormon Democrat: The Religious and Political Memoirs of James Henry Moyle* (1975), 76.

<sup>4</sup> In an 1858 address delivered in the Salt Lake Tabernacle, Apostle George A. Smith remarked that "the study of the practice of law" almost always leads to apostasy. 6 JD 160.

<sup>5</sup> See James H. Backman, *The History of Mormon Lawyers*, Part III, 1, prepared for use in a 1978 law school seminar course, unpublished. Some of the LDS students who attended law school at the University of Michigan during the 1890s included: John M. Cannon, David Evans, Ferg Ferguson, W.R. Hutchison, Samuel R. Thurman, Gustave A. Iverson, Hyrum S. Laney, Henry H. Rolapp, Noble Warrum, Oscar McConkie and A.H. Christensen. *Id.*

<sup>6</sup> Interview with Samuel Thurman, conducted by Professor James Backman, BYU Law School, Summer 1978.

many of the first Bishops and Stake Presidents in California, Nevada and Arizona developed their initial leadership skills during their legal professions.<sup>7</sup> Much of the Church's tremendous growth in those geographic areas can be traced to the dedicated Church service rendered by LDS attorneys. Furthermore, many LDS attorneys have held high judicial and political appointments that have greatly bolstered the Church's credibility and image in the public eye.<sup>8</sup> To date, fifty-four of the Church's General Authorities have been legally trained. In recent years, LDS attorneys have been instrumental in fortifying the legal structure of the Church and in facilitating its global programs such as the Perpetual Education Fund.

This chapter will first discuss individuals who provided needed encouragement and assistance to up-and-coming LDS attorneys. It will then spotlight the legal careers of three remarkable men of this period, Stephen L. Richards, J Reuben Clark, Jr. and Marion G. Romney. We will then turn our attention to the creation and impact of the BYU Law School. The chapter will conclude with a look at significant developments and lawyers at Church Headquarters.

## **Section A: The Rising Generation of LDS Attorneys after James Henry Moyle**

### **The Right People in the Right Place at the Right Time**

- Is there any individual who profoundly affected your decision to study law or your experience while at law school?
- What is the connection between Doc. & Cov. 84:106 and the principle of mentoring? How can you be a mentor to others?

As young Mormons turned Eastward seeking a legal education, they were greatly assisted by established LDS professionals. The most notable of these included Reed Smoot, and later, John Edmunds and Stewart Grow. These important and influential men were wholeheartedly devoted to the building up of the Church. All three men greatly assisted LDS law students in getting connected and set up with internships and careers. This networking effort opened doors for numerous Mormon students

---

<sup>7</sup> Backman, *History of Mormon Lawyers*, at III, 17-23.

<sup>8</sup> *Id.* at 17.

and lawyers, enabling entrance into prestigious schools, firms and influential political circles.

### **Reed Smoot**

Reed Smoot did much to assist law students and recent law graduates in the Washington D.C. area. As an Apostle and Utah Senator, Reed Smoot spent many years in D.C. He quickly became well-known and respected among politicians. While in D.C., Smoot enthusiastically introduced Mormon law students and graduates to influential men in high political and economic spheres. This proved a key inroad for many LDS students to work opportunities in the nation's capitol.

In subsequent years, Ernest Wilkinson, who would later become President of Brigham Young University from 1951-1971, also assisted many LDS law students in the D.C. area. Meanwhile, he performed extensive pro-bono service for the Church.<sup>9</sup> Wilkinson was also influential in the Church's decision to establish a law school at BYU.

### **John Edmunds**

Years later, John Edmunds did much to build up the Church and assist law students in the Chicago area. Heeding counsel from President Heber J. Grant to "put down his roots in Chicago and build up the Church there," Edmunds, a Utah native, made his home in Chicago and wholeheartedly dedicated his life to Church service. Edmunds reports that fifty percent of his time involved Church work and service; the rest of his time was devoted to his legal career, family and other responsibilities.<sup>10</sup> While in Chicago, Edmunds saw the Church grow from a few small branches to a great stake over which he presided for eighteen years. Additionally, as a lawyer in a mid-sized firm and a law professor at Northwestern, Edmunds proved a tremendous resource to LDS students in Chicago. Edmunds' friendship and assistance benefited many up-and-coming LDS attorneys including, Rex E. Lee, founding dean of the J. Reuben Clark Law School, and three of the law school's first professors, Dallin H. Oaks, Keith Rooker and Monroe McKay.<sup>11</sup>

### **Stewart Grow**

---

<sup>9</sup> Woodruff J. Deem & Glenn V. Bird, *Ernest L. Wilkinson: Indian Advocate and University President* (1982), 244.

<sup>10</sup> Backman, *History of Mormon Lawyers*, at III, 18.

<sup>11</sup> *Id.*

Equally inspiring was the life-long service of BYU political science professor Stewart Grow. Hundreds of today's senior LDS attorneys accredit their decision to study law from their association with Dr. Grow. Grow was such a warm and personable man that students were rarely satisfied taking just one class from him. Outside of class, students would commonly meet with him to discuss their anxieties about future career plans, potential spouses and other of life's uncertainties. Stewart Grow had a gift and effectively imbued many confused and discouraged students with self-esteem and direction. Frequently, he directed students to attend law school. Having worked several years at the Pentagon in Washington D.C. earlier in his career, Grow appreciated the opportunities open to a person with a law degree, especially to those with degrees from the nation's most reputable law schools.

Early on in his career at BYU, Stewart Grow supplemented his teaching with work as a pre-legal counselor. Part of this job consisted of meeting with law school deans and admissions directors to build rapport and encourage them to admit BYU students to their various schools. One success which benefited about a dozen BYU students stemmed from an early 1950s interchange with Joe Lucas, Admissions Chair at the University of Chicago Law School. Grow successfully negotiated an agreement with Lucas to allocate one Chicago Law School national scholarship to a BYU student each year.<sup>12</sup> At Grow's funeral in 1978, Dallin H. Oaks, a close friend of Grow and a recipient of the national scholarship, said: "It is very likely that within the last quarter century Stewart Grow has had as significant an influence on Mormon lawyers as anyone in the history of the Church."<sup>13</sup>

### **Stephen L. Richards, J. Reuben Clark Jr. & Marion G. Romney**

- Marion G. Romney looked to J. Reuben Clark as a role model. Which of the men in this section do you most relate to and why?

---

<sup>12</sup> Jeanne Grow, *Stewart L. Grow: Potter at the Wheel of the History of Mormon Lawyers* (1978), 32, located in the library at the J. Reuben Clark Law School, Brigham Young University. Three of the recipients of the University of Chicago law school national scholarship include: Dallin H. Oaks, Rex E. Lee and Ed Firmage. *Id.* Oaks and Lee both finished law school at the top of their respective classes. *Id.* at 47.

<sup>13</sup> *Id.* at title page.

- Romney and Richards took deliberate steps to fortify their faith and strengthen LDS peers while at law school. What do you need to change in order to prioritize spiritual matters in your life?

Perhaps most inspirational during this era were the legal and Church careers of Stephen L. Richards, J. Reuben Clark Jr. and Marion G. Romney. Each, after enjoying remarkable legal and political careers, became a counselor in the First Presidency. Much can be gained from a probing study of their lives.<sup>14</sup> Their lives and achievements presaged the legitimacy of attorneys which is enjoyed in the Church today. During this era, the Church's reputation in political and intellectual circles significantly improved and Church members began to make major contributions in high political positions.

#### Stephen L. Richards

Throughout his life, Stephen L. Richards was devoted to the Church. He attributed his resolute commitment to the example of his grandfather, Willard Richards, one of the first great pioneers and apostles of the Church. When Stephen L. Richards first attended law school at the University of Michigan in 1901, his home served as the meeting house for Sunday worship services. Members and non-members alike were invited to and attended those meetings. Richards' proactive approach of encouraging his LDS law school peers to stay strong in the faith provided much needed positive peer pressure at a time when their faith was challenged on all fronts

Upon finishing his first year of law school at the University of Michigan, Richards transferred to the newly-opening law school at the University of Chicago. After setting an example of hard work and of firm conviction to Mormonism, he became a member of the law school's first graduating class in 1904. Richards' example left an enduring impression on the University of Chicago Law School's founding dean. When speaking

---

<sup>14</sup> Biographies have been written on each of these men. In 1994, W. Dee Halverson published a biographical work on Stephen L. Richards. F. Burton Howard published a biography on Marion G. Romney in 1988. Three have been written on J. Reuben Clark: David H. Yarn Jr., *Young Reuben: The Early Life of J. Reuben Clark* (1976); Frank W. Fox, *J. Reuben Clark Jr., the Public Years* (1980); and Michael D. Quinn, *Elder Statesman: A Biography of J. Reuben Clark* (2001).

with an LDS student, Ernest Wilkinson,<sup>15</sup> two decades later, the dean remarked that since the founding of the law school “year in and year out [the best students] were Mormon . . . and that in [my] entire career as dean, the best student [I] ever had was Stephen L. Richards.”<sup>16</sup> Another statement he made is both inspiring and sobering to today’s LDS law students: “With the Mormon ancestry and religious conviction that you young Mormons have, with your conviction as to your divine origin and destiny, you ought to be the best students in the world and you are at fault if you are not.”<sup>17</sup>

After graduation, Richards moved to Salt Lake City where he started up a practice and taught part-time at the University of Utah Law School. His integrity and strong legal mind won him great respect among fellow attorneys and Church leaders. In 1909, just five years after returning to Utah, Richards was appointed as assistant to President Joseph F. Smith. His devotion to the gospel and his legal training were further applied as he served as first assistant to the Sunday School superintendent, as an apostle and, later, as a counselor to Church President, David O. McKay. As a humble law student and in the echelons of the Church, Richards’ conduct exemplified President McKay’s well-known slogan: “What e’re thou art, act well thy part.”

#### J. Reuben Clark, Jr.

J. Reuben Clark’s legal career also culminated in a call to serve as a counselor in the First Presidency, first to Heber J. Grant and later to David O. McKay. His life encapsulates three profound qualities: love of learning, love for country and devotion to the Church.

Clark’s love of learning was first sparked by his mother who taught him at home until age 10. His exuberance only grew stronger as he continued his education in the public school system. Years later, as class Valedictorian, Clark graduated with a bachelors of science degree from the University of Utah. But his passion for education did not end there. Just as soon as Clark took off his graduation robes, he put on his new robes as a teacher and administrator at both the high school and college level. While this proved an exhilarating, albeit low-paying, job, J. Reuben Clark became highly interested in learning about

the law. Thus, in 1903, as a married 32-year-old with two children and no money, Clark began his first year of studies in New York City at Columbia Law School. While law school was fascinating to Clark, it was not easy, especially with his unique family responsibilities. His biographer paints a vivid picture of Clark’s first year experience at law school:

Flunking of course, was the ultimate horror. But even more immediate than failure was the fear of public humiliation. The Socratic method of teaching was moving swiftly to the fore at Columbia, and the opportunities it presented for making a fool of oneself were legion. . . . One professor, Charles Thaddeus Terry, was feared as a “terrifying master” of the technique, . . . Reuben was happy enough to make it through Terry’s “Contracts” in one piece. A classmate by the name of Franklin Roosevelt flunked it miserably.”<sup>18</sup>

Despite overwhelming challenges, Clark’s keen mind and hard work earned him a prestigious spot on the law review editorial board during his second year, a privilege afforded to only three second year students that year.

Also, like Richards, Clark made a profound impression on his professors. One professor, Dr. James Brown Scott, was so impressed that he invited Clark, upon completion of law school, to work with him in the State Department.

Clark’s love of learning continued throughout his days and afforded him remarkable service opportunities to his beloved country. With an unwavering faith in the inspired U.S. Constitution, Clark set forth to serve his country and uphold the Constitution. He considered the Constitution to be part of his religion.<sup>19</sup> His illustrious legal and civil service career included appointments as assistant solicitor in the State Department, under Secretary of State, ambassador to Mexico, and service on law and diplomacy commissions. He is probably best remembered in political spheres for the *Clark Memorandum on the Monroe Doctrine*,<sup>20</sup> which he authored and which was praised by critics as a “monument of erudition.” Former Secretary of State, Philander C. Knox, spoke of Clark in words of utmost respect: “I am

---

<sup>15</sup> Wilkinson spent his career in D.C. building up a firm and, in later years, served as President of BYU.

<sup>16</sup> *Speeches of the Year: Dedication of the Stephen L. Richards Physical Education Building* (1965), 12.

<sup>17</sup> *Id.* at 12-13.

---

<sup>18</sup> Fox, 35-36.

<sup>19</sup> “America—A Chosen Land of the Lord,” YMMIA and YWMIA Annual Conference, SLC, June 9, 1940, printed in *Stand Fast by Our Constitution*, 172.

<sup>20</sup> The semi-annual publication of the J. Reuben Clark Law School Society takes its name from this famous work.

doing him but justice in saying that for his natural ability, integrity, loyalty, and industry, I have not in a long professional and public service met superior and rarely his equal.”<sup>21</sup>

Clark accomplished marvelous things within the Church as well. Throughout his life, he had a special interest in the ministry and teachings of Jesus Christ.<sup>22</sup> This commitment to and interest in the gospel began with his righteous upbringing and was strengthened through the years as his parents continued to encourage and teach him. One touching letter from his father reads, “you have . . . had the silent petitions of a father and mother to the great giver of all good, and I feel that our petitions have not been in vain and I am satisfied that you have not forgotten those little devotions taught at your mother’s knee. Don’t forget the Lord and He won’t forget you.”<sup>23</sup> Clark built on this righteous foundation and became one of the Church’s great proponents for freedom, integrity, work, and the inspired Constitution. He authored several books on these and other topics and was an apostle and Church leader who will not soon be forgotten. The life of J. Reuben Clark stands as a beacon of what can be accomplished both in the Church and in political spheres by a devout servant of the Lord.

#### Marion G. Romney

Marion G. Romney was deeply influenced by the life and ideals of J. Reuben Clark Jr.<sup>24</sup> Thirty years his junior, Romney watched closely as Clark’s illustrious career unfolded both in and out of the Church. In time, Romney followed in Clark’s footsteps, beginning as an attorney in Salt Lake City and, later, becoming a counselor in the First Presidency to Presidents Harold B. Lee and Spencer W. Kimball.

---

<sup>21</sup> See

[http://www.law2.byu.edu/Law\\_School/contact\\_info/biography\\_Reuben\\_Clark.htm](http://www.law2.byu.edu/Law_School/contact_info/biography_Reuben_Clark.htm) (accessed November 10, 2003)

<sup>22</sup> This was likely fostered by his lifelong association with James Talmage, author of the principal LDS treatise on Christ. Their close friendship is perhaps best evidenced by the fact that Talmage performed the sealing ceremony when Clark was married in 1898. Talmage once said of Clark, “he is the greatest intellectual to ever leave Utah.”

<sup>23</sup> Backman, *History of Mormon Lawyers*, at III, 13.

<sup>24</sup> F. Burton Howard, *Marion G. Romney: His Life and Faith* (1988), 97.

When Romney decided to study law at the University of Utah Law School, family members were concerned that a legal career would undermine his faith. He too was concerned. He explains:

I wanted to practice law, but I had an even greater desire to keep my testimony, and so I decided upon a little procedure which I recommend to you. For thirty minutes each morning before I began the day’s work I read from the Book of Mormon . . . and in just a few minutes a day I read the Book of Mormon through, every year, for nine years . . . I know that it kept me in harmony, so far as I did keep in harmony, with the Spirit of the Lord. It will hold us as close to the Spirit of the Lord as anything I know.<sup>25</sup>

Romney’s devout commitment to reading scriptures not only protected him spiritually, but molded him into one of the Church’s greatest spiritual leaders.

Marion G. Romney was a man of unbending principle. On one occasion, while Romney was serving as a Utah State legislator, the governor asked him to advocate a position that he felt was inconsistent with Church policy. Seeking first the kingdom of heaven, Romney turned down the governor’s request and resigned from his office.<sup>26</sup> Holding fast to principle never set Romney back; rather, it caused people to respect and revere him. He became a leader in the community, a man of integrity that people could turn to for a straightforward, honest and unpretentious response. Romney once remarked, “by standing by your principles, by holding to your high ideals, you don’t lose anything—financially or socially—nor the friendship of anyone whose friendship is worth having.”<sup>27</sup>

### **Other Attorneys in the First Presidency**

- Hugh B. Brown’s admittance to law school was very unique. What lessons does it teach us?
- Notwithstanding the enormous amount of time they sacrificed doing Church work, Brown, Hunter, Moyle and Faust all excelled in their legal careers. Discuss this in connection with 3 Nephi 13:19-21; 33.

---

<sup>25</sup> *Id.* at 88-89.

<sup>26</sup> *Id.* at 102

<sup>27</sup> *Id.*

During the 20<sup>th</sup> Century, several other attorneys have served as General Authorities. In fact, twenty-two legally-trained General Authorities are currently serving.<sup>28</sup> In addition to Richards, Clark and Romney, four other attorneys have served in the First Presidency during the 20<sup>th</sup> century, namely: Hugh B. Brown, Howard W. Hunter, Henry D. Moyle and James E. Faust.

#### Hugh B. Brown

Hugh B. Brown's unusual admittance into a Canadian law school is a delightful story. Initially, he was denied admittance to the University of Alberta Law School because he had not completed two years worth of prerequisite courses. However, after delivering a powerful sermon, at which the University President was coincidentally present, the President approached him and asked "Are you the Mr. Brown who wrote to me about joining the law society?" After a short conversation, the President said, "If you will write to me tomorrow morning I will change the verdict. No man can talk like you have done today and not be entitled to be a law student." "This," President Brown observed more than a half century later, "was the most profitable sermon I ever preached."<sup>29</sup>

After graduation, he opened up his own law office in Lethbridge, Alberta and served as the local Stake President. Later, Brown moved to Salt Lake City where he joined J. Reuben Clark's firm. After serving as a mission president and Apostle, Brown served as a counselor to President David O. McKay from 1961-1970.

#### Howard W. Hunter

Howard W. Hunter is the only LDS attorney to become President of the Church. Hunter graduated with honors from Southwestern University Law School in 1939. Like Brown, Hunter's early legal career was supplemented by weighty Church service. In 1941, Hunter was called as the local Bishop and from 1950-1959, he served as the President of the Pasadena, California Stake. Then, in 1959, Hunter was released as Stake President in order to be ordained an Apostle. From that point on, Hunter put aside the practice of law in order to devote himself wholeheartedly to Church service. Howard W. Hunter served as President of the Church from 1994-1995.

---

<sup>28</sup> See Appendix.

<sup>29</sup> Edwin B. Firmage, *An Abundant Life: The Memoirs of Hugh B. Brown* (1999), 61-62; See also Chapter 6 of Eugene E. Campbell and Richard D. Poll, *Hugh B. Brown: His Life and Thought* (1975).

#### Henry D. Moyle

Henry D. Moyle initially felt like the career for him was mining engineering. He even went to Freiberg Germany to pursue his studies. However, Moyle's interest in mining was soon replaced by a growing interest in the law. Moyle's father, James Henry Moyle<sup>30</sup> was a prominent Utah lawyer and was very pleased when his son, Henry, decided to study law. Henry D. Moyle attended the University of Chicago Law School but took many of his classes at Harvard Law School. He would later spearhead and become president of the Harvard Chapter in Utah. Moyle graduated cum laude in 1915 and moved back to Salt Lake City where he practiced law in several different firms and taught part-time at the University of Utah. To a prospective law student, he once wrote:

I hope ... you will keep up your standing and your activities in the Church in spite of your concentrated law studies. I am certain that devoting the time I did while at the Harvard Law School to the Church has paid me dividends even greater than those which my attendance at Harvard has. We get so much more out of our life if we maintain our ideals and keep our life well rounded and not too much self-centered upon our profession. It does not detract from our efficiency in the least.<sup>31</sup>

Moyle's lifelong service in the Church culminated in a call to serve in the First Presidency as counselor to President David O. McKay from 1959 until his death in 1963. Prior to that call, Moyle served as President of the Cottonwood Stake from 1929 to 1937 and Apostle from 1947 to 1959.

#### James E. Faust

James E. Faust attended law school at the University of Utah and practiced law in Salt Lake City. While filling Church callings such as Bishop, Stake President and Regional Representative, Faust still managed to excel in his legal career. He served as a Utah state legislator, president of the Utah Bar Association and as a member on several law committees. In 1972, at the age of 52, Faust was sustained as an Assistant to the Twelve. From that point on, Faust abandoned his career as a lawyer in order to give a hundred percent of his time and energy

---

<sup>30</sup> See *supra*: The Early Church and the Legal Profession.

<sup>31</sup> Richard D. Poll, *Working the Divine Miracle: The Life of Apostle Henry D. Moyle* (1999), 40.

to Church service. Regarding his call to be a General Authority, Faust humorously remarked:

“I realize that life for me and mine can never and should never be the same. *For twenty-two years and until last Thursday morning I have been a lawyer, and since then I have been trying to repent.* Now I shall try to become one of the fishers and help these brethren cast forth and draw in the nets of eternal life” (emphasis added).<sup>32</sup>

James E. Faust has served as second counselor to President Gordon B. Hinckley from 1995 to the present.

## **Section B: A Law School at BYU and the Growing Need for LDS Attorneys**

### **Formation of the J. Reuben Clark Law School**

- Why do you think the Lord had thirty-six year old Lee serve as the founding dean? Discuss Lee’s efforts in conjunction with Ether 12:6 and 1 Nephi 3:7.
- Many miracles were involved in the formation of BYU’s Law School. What does that suggest about the Lord’s interest in LDS attorneys and legal scholars? See Doc. & Cov. 93:53
- Has BYU Law School attained a “greatness that transcends religious lines?”

Fittingly, Romney, while serving as a senior member of the Twelve, was assigned to spearhead and oversee the creation of the J. Reuben Clark Law School at BYU. Undoubtedly, Romney’s admiration of Clark played some part in the process of naming the law school. Romney selected Ernest Wilkinson, Dallin H. Oaks and Elder Neal A. Maxwell as the initial taskforce. It was their job to conduct preliminary studies and interviews and to select the law school’s first dean. Thirty-six year old Rex E. Lee was chosen for the position. Lee had been the recipient of a national scholarship to the University of Chicago Law School and graduated first in his class. Between graduation and being appointed dean, Lee enjoyed a very successful legal career in a large Arizona firm. Lee was appointed dean in October, 1971. Classes were

---

<sup>32</sup> James E. Faust, “To Become One of the Fishers,” *Ensign*, January 1973.

expected to commence in the fall of 1973, less than two years away.

Gratefully, Lee had the assistance of Bruce C. Hafen, an up-and-coming legal scholar who, today, serves as a member of the First Quorum of Seventy. Hafen was hired as an assistant to the newly-appointed BYU President, Dallin H. Oaks. His first assignment was to assist in the formation of the law school. Together, Lee and Hafen set out to build a strong and reputable law school from scratch. This would be the first-ever Church-sponsored doctoral program.

Creating a nationally acclaimed law school was no easy task. Lee described his first six months as dean of a law school - with no faculty and no students –as “the most stressful and anxiety-laden period of my life.”<sup>33</sup> “We all knew the Law School didn’t make sense from a rational standpoint.”<sup>34</sup> “The image that kept coming back to haunt me,” he remarked, “was of an opening day late in August 1973 where about 20 students were being taught by Bruce Hafen and me.”<sup>35</sup> Low on Lee’s “worry scale” were the construction of the law school building, the creation of the library and public relations concerns. His two chief tasks were the recruitment of a solid and experienced faculty and a high caliber charter class of students.<sup>36</sup> These two tasks occupied most of his time and caused him the most grief. Potential students and faculty could not help but speculate at the viability of a strong law school at BYU and this fueled widespread inhibition and indecision. For much of the time prior to the first day of classes, Lee did not know who would decide to take this law school seriously and show up.<sup>37</sup>

Eventually, recruitment efforts and prayers brought startlingly impressive results. When 17-year University of Michigan law professor

---

<sup>33</sup> Rex E. Lee, “Thoughts After 15 Years,” *Clark Memorandum*, Spring 1990, 14

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 16.

<sup>36</sup> For a fascinating discussion of faculty and student recruitment for the law school, see chapters two and five of Carl S. Hawkin’s *The Founding of the J. Reuben Clark Law School*, Provo, UT (BYU Studies, 1999).

<sup>37</sup> On three occasions, Lee was so flustered that he called up President Romney and asked him to make one exception to Church policy by “calling” a nationally-acclaimed LDS lawyer to serve on the faculty. Each time President Romney reminded Lee that we don’t do things that way. See Lee, *Thoughts After 15 Years*, at 15.

veteran, Carl Hawkins, agreed to come, many others quickly jumped on the faculty bandwagon. When University President, Dallin H. Oaks, learned of Hawkins decision to come he remarked, with tears in his eyes, "I guess the Lord really wants this law school ... to be a good one. Carl's coming."<sup>38</sup> "It was like the moment in Camelot when King Arthur says, 'Lancelot is coming.'"<sup>39</sup> Similarly, when Monte Stewart agreed to attend BYU's law school, foregoing the prestige of a Harvard Law School education, many indecisive students gained confidence and decided to "risk it" as members of the law school's charter class. Of course, scholarship money was also a key factor for recruiting top students.<sup>40</sup>

Ultimately, of the 400+ student applications submitted, 214 were accepted and 156 students chose to attend. Forty-five percent were from Utah, but this dropped in subsequent years to between thirty-three and thirty-six percent. A hundred and twenty-seven of the charter class students had served missions and ninety-eight spoke a second language fluently. Fourteen had graduate degrees. Ninety were married.

The original faculty included Ed Kimball, Keith Rooker, Dale Whitman, Gerry Williams, Woody Deem, Carl Hawkins, Bruce Hafen, Dave Lloyd, and Rex Lee.<sup>41</sup> All of the original faculty were educated at leading law schools and were members of the Order of the Coif, a prestigious honors society for legal scholars. All graduated at or near the top of their respective law classes.<sup>42</sup> Indeed this was a world-class faculty.

The students were excellent as well. When visiting the law school, Chief Justice Warren Burger of the Supreme Court remarked to Dean Lee that he had never seen such a "mature and sensitive student body."<sup>43</sup> Placement for the charter class was remarkably high at 83 percent compared to the average placement rate in the West of 43 percent.<sup>44</sup> This was a phenomenal accomplishment considering the law school had not yet been accredited by the American Bar

---

<sup>38</sup> Excerpts from transcript of Bruce Hafen's remarks at retirement dinner for Carl Hawkins and Douglas Parker, April 27, 1991, located in BYU law library archives.

<sup>39</sup> *Id.*

<sup>40</sup> Lee, "Thoughts After 15 Years," at 15

<sup>41</sup> *Id.*

<sup>42</sup> Carl S. Hawkins, "In the Beginning: The Making of the J. Reuben Clark Law School, *Clark Memorandum*, Spring 1997, 23, 29.

<sup>43</sup> Backman, *History of Mormon Lawyers*, at IV, 6.

<sup>44</sup> Carl S. Hawkins, *The Founding of the J. Reuben Clark Law School* (1999) 71.

Association (ABA). To a large degree, the law school's successful placement of students was due to LDS "instant alumni," who eagerly reached out and helped charter class graduates acquire their first legal positions. Bar passage rate was also high.

Perhaps the most significant and symbolic achievement of the charter class was when top student and editor-in-chief of the law review, Monte Stewart, clerked for Chief Justice Burger of the U.S. Supreme Court. This was a remarkable feat for a beginning law school. As if to provide a second witness of the law school's promising future, Eric Anderson, of the second graduating class, clerked for Justice Powell of the U.S. Supreme Court. To date, ten graduates have clerked for Justices of the U.S. Supreme Court.<sup>45</sup>

The new building, dedicated in September 1975, was warmly welcomed by students and faculty who had spent the first two years in a rented school hall a mile away from BYU campus. The law school became ABA approved in 1977.<sup>46</sup>

BYU Law School has done much to encourage the study of law. When the law school was first founded, it attracted the majority of LDS students seeking a legal education. Today, there are as many LDS students at other law schools as before, plus, approximately 150 entering BYU Law School each year.<sup>47</sup> Yearly, hundreds of LDS students graduate from the nation's law schools with skills that the Lord will invariably make use of to build up the kingdom.

Founding Dean Rex Lee had a vision of a truly great law school at BYU with world-class faculty and students. He was never content to settle with mediocrity or to simply pass the "embarrassment test."<sup>48</sup> Then BYU President, Dallin H. Oaks, had similar expectations. The

---

<sup>45</sup> Monte Stewart (1976), Eric Anderson (1977), Kevin Worthen (1982), Michael Mossman (1984), Von Keetch (1985), Denise Lindberg (1988), Karl Tilleman (1990), Stephen Sarjent (1994), Jay T. Jorgensen (1997), and Hannah Smith (2003). See Hawkins, *The Founding of the J. Reuben Clark Law School*, 128, Note 2.

<sup>46</sup> For a fascinating discussion of the law school's path to accreditation, see Hawkins, *The Founding of the J. Reuben Clark Law School*, chapter 9. Two areas of concern involved tithing and blacks in the priesthood.

<sup>47</sup> Law School Summary Report, BYU Pre-Law Advisement Center, 3234 Wilkinson Student Center

<sup>48</sup> Hawkins, *The Founding of the J. Reuben Clark Law School*, 43.

law school, he said, “must attain a greatness that *transcends religious lines* and establishes itself in the eyes of legal educators, scholars, the judiciary, the legal profession, the business world, officials of local, state and federal government, and citizens at large.”<sup>49</sup>

## Impact of BYU’s J. Reuben Clark Law School

- Why do you think Durham and Wilkins carry out annual international conferences? How might this benefit the law school or the Church?
- President James E. Faust warned that we put our souls at risk when we justify “what we do individually and professionally on the basis of what is “legal” rather than what is “right.” What did he mean by this?

Over the years, the law school has become well-respected and widely recognized as a prestigious institution.<sup>50</sup> The law school’s graduates have much to do with this as they have been very successful in private and public sectors, and in a host of other areas including politics, academia, business, consulting, etc.<sup>51</sup> Job placement rates for BYU law school graduates have been consistently high since the school’s founding and for the past several years, the average placement rate of graduates six months after graduation has been consistently well above ninety-five percent.<sup>52</sup>

The law faculty has also done much to make a name for the law school. For instance, Professor Cole Durham, founder of the International Center for Law and Religion Studies, has built up a world-class church-state program and he, personally, is consulted on church-state issues and legislation worldwide. Professor Richard Wilkins, a BYU law school graduate, and director

of the law school’s World Family Policy Center, has been a strong advocate for the preservation of the family and family values. Both Wilkins and Durham host large-scale international conferences at the law school annually. Other professors have brought prestige and honor to the law school in a variety of ways, namely: the formation of nationally-acclaimed extracurricular and externship programs; excellent and innovative teaching; co-authoring textbooks and producing a host of publications.

The creation and evolution of the J. Reuben Clark Law Society is another tremendous development from the law school. Founded in 1988, the Law Society has a 2003 membership of 5949, 4243 of which graduated from BYU law school. The mission statement is as follows: “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.”<sup>53</sup> This inspiring declaration is embraced by LDS and non-LDS alike. The Society provides a brotherhood, or a community, wherein its attorney-members can cherish and defend “eternal principles of right revealed by God our Father.”<sup>54</sup> It is also a source that provides monetary endowments greatly needed to assure a bright future for the law school. And, of course, it serves as a thriving network for LDS law graduates.

In recent years, Law Society leaders have made major efforts to recruit non-LDS attorneys who espouse the same fundamental moral principles. One example is a Jewish man who recently served as the head of the Salt Lake City chapter. The Law Society’s impact will undoubtedly increase in time.

During the fall of 2002, President Faust, second counselor in the First Presidency, himself an attorney, addressed the Clark Society at an unprecedented event, broadcasted from the LDS Conference Center in Salt Lake City. For the first time ever, the Church satellite broadcasting system was used to address a professional audience. The following inspiring words, from his address, were heard both near and far, by members and non-members alike.

---

<sup>49</sup> “Addresses at the Ceremony Opening the J. Reuben Clark Law School,” August 27, 1973, 7 [emphasis added], speech by Dallin H. Oaks, BYU President.

<sup>50</sup> BYU’s law school continues to climb the ranking charts of US News & World Reports. While for many years, it has been considered a top-tier institution, in 2003, BYU’s law school was ranked #31, amidst the nation’s several hundred law schools.

<sup>51</sup> “Graduating Class Statistical Reports: 1998-2002,” Career Services Office, J. Reuben Clark Law School.

<sup>52</sup> *Id.*

---

<sup>53</sup> See J. Reuben Clark Society Brochure, <http://www.law2.byu.edu/Law-Society/membership/JRCLSBrochure.pdf> (accessed November 10, 2003)

<sup>54</sup> “Addresses at Ceremony Opening the J. Reuben Clark Law School, August 27, 1973,” 10 [speech by BYU President, Dallin H. Oaks].

In our own standards of personal conduct we must remember that the laws of men are the lesser law. I cite to you that the laws of many jurisdictions do not require or encourage being a Good Samaritan. As I have said before, there is a great risk in justifying what we do individually and professionally on the basis of what is “legal” rather than what is “right.” In so doing, we put our very souls at risk. The philosophy that what is legal is also right will rob us of what is highest and best in our nature. What conduct is actually legal is, in many instances, way below the standards of a civilized society and light years below the teachings of Christ. If you accept what is legal as your standard of personal or professional conduct, you will deny yourself of that which is truly noble in your personal dignity and worth. A lawyer’s own careful conscience and his own standard of high integrity ultimately must govern his conduct.<sup>55</sup>

Indeed, the Law Society is doing more and more to encourage legal practitioners to do all things consistent with the higher law, the gospel of Jesus Christ.

BYU law school recently celebrated its 30<sup>th</sup> anniversary in 2003. Its oldest graduates are generally in their mid-fifties. The Law Society is barely fifteen years old. The fruits we see now are just the tip of the iceberg. It will probably be many more years before we comprehend the enormous significance of the founding of the J. Reuben Clark Law School.

## Church Headquarters

- What type of legal issues do you think the Church faces in its international efforts?
- Why do you think there have been so many legally trained general authorities over the history of the Church? Why are there so many today? How can we as lay members use our legal training to serve the Church?

To date, there have been fifty-four legally-trained General Authorities over the history of the Church, twenty-two of which are currently

servicing.<sup>56</sup> Elder Howard W. Hunter was the first legally-trained Church President. Amazingly, since the founding of the Church, seven of the fourteen who have served as first counselors in the First Presidency have been attorneys.<sup>57</sup> Clearly, knowledge of the law is tremendously important in an institution the size of the Church. As the Church moves forward, it will undoubtedly rely more and more on legally-trained Church members to manage its global affairs. Two fairly recent legal endeavors undertaken by the Church have been the formations of an Office of General Counsel and the Perpetual Education Fund. In each case, legally-trained general authorities were assigned to head the task force.

Elder Lance B. Wickman was called in 1995 to establish the Church’s first Office of General Counsel, located in the Church Office Building in Salt Lake City. While the Church obviously relied on legal counsel in the past, it had never established its own in-house office until the appointment of Elder Wickman as General Counsel for the Church. Wickman’s task was daunting; he was to oversee all of the legal affairs of the Church, both domestically and abroad. A few of the legal issues he would deal with globally include import-export taxes of humanitarian goods, establishment of Church legal entities, trademarking the name of the Church and Book of Mormon, property acquisition, missionary visas, acquisition of building permits, etc.

Today, Wickman has seven international legal counsels [ILCs] stationed around the world. Each ILC is responsible to oversee legal work in his respective area, usually consisting of more than 20+ countries. Most of the Church’s international legal work is done by renowned attorneys from within the respective countries. Wickman, with the help of two associate general counsels, William F. Atkin and Boyd Black, directs the work of the ILCs and engages in strategic legal planning for the Church. Together this team of less than a dozen has done much to establish the Church on sound legal footing in many countries across the globe.

The Perpetual Education Fund was established in 2001. Elder John K. Carmack was appointed to be its first Managing Director; he continues in that capacity today. His legal training has been drawn upon significantly during this tenure.

---

<sup>55</sup> James E. Faust, “Be Healers,” *Clark Memorandum*, Spring 2003, 3.

---

<sup>56</sup> See Appendix. Elder Steven E. Snow is the first BYU Law School graduate to serve as a General Authority.

<sup>57</sup> Sidney Rigdon, George A. Smith, Henry D. Moyle, Hugh B. Brown, J. Reuben Clark Jr., Stephen L. Richards & Marion G. Romney.

Clearly, the Perpetual Education fund was an inspired idea; it would help thousands of Latter-day Saints world-wide become educated and self-sufficient. However, legally, it was a complicated undertaking. Lending money in second and third-world countries at extremely low interest rates involves complex legal issues such as tax, debtor-creditor, and banking laws. Additionally, each country has its own laws and many countries levy high tariffs for international transactions. Legal structures in these countries are rarely accommodating. Elder Carmack's task has been to create and maneuver legal entities such that the Perpetual Education Fund may be a feasible program world-wide.

According to Elder Wickman, the Church and the law are inextricably connected.<sup>58</sup> As the Church grows and spreads across the Earth, it faces more and more legal obstacles which will need to be addressed by competent, spiritually prepared LDS attorney-Church leaders. This becomes our responsibility.

## Additional Reading Selections

[Address by Dallin H. Oaks at Opening Ceremonies of the J. Reuben Clark Law School.](#)

"The J. Reuben Clark Law School must always foster an enlightened devotion to the rule of law. The principal function of law and thus the principal occupation of lawyers is the prevention and settlement of disputes. Men of law must understand and help others to understand that despite all the imperfections of law and lawyers, there is no better system of preventing and settling disputes than the rule of law."

[Address by Dallin H. Oaks at Opening Ceremonies of the J. Reuben Clark Law School.](#)

"The law stands for the protection of the man who is evil as well as the man who is good, just as the Lord "maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust" (Matt. 5:45). The results of this impartial protection are not ideal, but history shows this principle to be the best available alternative until our legal processes are perfected by the great lawgiver and judge to whom one day we all will bow in allegiance. So long as our lawmakers and judges are fallible men, we need rules that will not bend one way for the man or the cause that someone deems to be good and yet another way for the man or cause that some men judge to be evil."

[Address by Dallin H. Oaks at Opening Ceremonies of the J. Reuben Clark Law School.](#)

"Rules based on tradition may be assailed when their supporting reasons have lost touch with the soil of human need, but rules based on morality must be defended at all costs, since they are rooted in the eternal principles of right revealed by God our Father."

[Marion G. Romney quoting President Harold B. Lee at Opening Ceremonies of the J. Reuben Clark Law School](#)

"We would hope that this institution [BYU Law School] might be instrumental in developing statesmen, as exemplified by the life of J. Reuben Clark, Jr.—men not only with unsurpassed excellence of training in the law, but also with unwavering faith that the Constitution of the United States was divinely inspired and written by men whom God raised up for that very purpose."

[Doctrine & Covenants 93:53](#)

"And, verily I say unto you, that it is my will that you should ... *obtain a knowledge of history, and of countries, and of kingdoms, of laws of God and man, and all this for the salvation of Zion.* Amen."

---

<sup>58</sup> Quoting Speech by Elder Lance Wickman, Church General Counsel and Member of the First Quorum of the Seventy, August 4, 2003.

## **APPENDIX**

### **Law-trained General Authorities [54 to date]<sup>59</sup>**

#### Current [22]

- James E. Faust [First Presidency, 2d Counselor]
- Dallin H. Oaks [Quorum of the Twelve]
- Earl C. Tingey [Presidency of Seventy]
- D. Todd Christofferson [Presidency of Seventy]
- Marlin K. Jensen [Presidency of Seventy]
- Cree-L Kofford [First Quorum of Seventy]
- Douglas L. Callister [2d Quorum of Seventy]
- L. Whitney Clayton [1<sup>st</sup> Quorum of Seventy]
- Quentin L. Cook [1<sup>st</sup> Quorum of Seventy]
- James M. Dunn [2d Quorum of Seventy]
- Bruce C. Hafen [1<sup>st</sup> Quorum of Seventy]
- Keith K. Hilbig [2d Quorum of Seventy]
- F. Burton Howard [1<sup>st</sup> Quorum of Seventy]
- J. Kent Jolley [2d Quorum of Seventy]
- Robert F. Orton [2d Quorum of Seventy]
- Carl B. Pratt [1<sup>st</sup> Quorum of Seventy]
- R. Conrad Schulz [2d Quorum of Seventy]
- Dennis E. Simmons [2d Quorum of Seventy]
- Steven E. Snow [1<sup>st</sup> Quorum of Seventy]
- Stephen A. West [2d Quorum of Seventy]
- Lance B. Wickman [1<sup>st</sup> Quorum of Seventy]
- H. Ross Workman [2d Quorum of Seventy]

#### Emeritus [10]

- Robert L. Backman [Presidency of Seventy]
- Marion D. Hanks [Presidency of Seventy]
- W. Eugene Hansen [Presidency of Seventy]

- H. Verlan Anderson [2d Quorum of Seventy]
- John K. Carmack [1<sup>st</sup> Quorum of Seventy]
- Francis M. Gibbons [2d Quorum of Seventy]
- Wayne M. Hancock [2d Quorum of Seventy]
- Augusto A. Lim [2d Quorum of Seventy]
- Ronald E. Poelman [1<sup>st</sup> Quorum of Seventy]
- Ray H. Wood [2d Quorum of Seventy]

#### Deceased [22]

- Howard W. Hunter [President of the Church]
- Oliver Cowdery [Assistant President]
- William W. Phelps [Assistant to President]
- Hugh B. Brown [First Presidency, 1<sup>st</sup> Counselor]
- J. Reuben Clark, Jr. [First Presidency, 1<sup>st</sup> Counselor]
- Henry D. Moyle [First Presidency, 1<sup>st</sup> Counselor]
- Stephen L. Richards [First Presidency, 1<sup>st</sup> Counselor]
- Sidney Rigdon [First Presidency, 1<sup>st</sup> Counselor]
- Marion G. Romney [First Presidency, 1<sup>st</sup> Counselor]
- George A. Smith [First Presidency, 1<sup>st</sup> Counselor]
- Daniel H. Wells [First Presidency, 2d Counselor]
- Albert E. Bowen [Quorum of the Twelve]
- Charles Albert Callis [Quorum of the Twelve]
- Albert Carrington [Quorum of the Twelve, Assistant Counselor to President]
- Matthew Cowley [Quorum of the Twelve]
- Orson Hyde [Quorum of Twelve]
- Bruce R. McConkie [Quorum of the Twelve]
- Franklin Dewey Richards [Quorum of the Twelve] [earlier]
- Franklin D. Richards [Presidency of the Seventy] [later]
- Charles Henry Hart [1<sup>st</sup> Quorum of Seventy]
- Antoine R. Ivins [1<sup>st</sup> Council of Seventy]
- Merlin R. Lybbert [2d Quorum of Seventy]

---

<sup>59</sup> See LDS Church Almanac 2003, 27-106; Records located at the Office of General Counsel of the LDS Church; Extensive research done by Professor James Backman, J. Reuben Clark Law School.