

→ This speech was presented at a J. Reuben Clark Law Society satellite fireside on February 28, 2003. ←

I am humbled to have been invited by Dean H. Reese Hansen, dean of the J. Reuben Clark Law School, and William Atkin, chair of the J. Reuben Clark Law Society, to participate in this historic fireside. I am advised that the J. Reuben Clark Law Society, founded in 1988, has a membership of 6,000 Latter-day Saint attorneys and law students in approximately 40 chapters throughout the world. I am grateful for the generous use of the Church satellite broadcasting system, which makes it possible for all of you to participate without traveling to a central location. ✿ Both the J. Reuben Clark Law School and this society were established for a noble purpose. President Marion G. Romney, who supported the establishment of the J. Reuben Clark Law School, stated that a principal purpose was to permit the study of the “laws of man in light of the laws of God.” ✿ I would like to expand on President Romney’s statement beyond the study of the laws of men in light of the laws of God to *involvement with* the laws of men in light of the laws of God. 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

be healers

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 the 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. The Doctrine and Covenants reminds us that “he that keepeth the laws of God hath no need to break the laws of the land” (D&C 58:21). ✿ Surely the higher law requires us to not only just seek justice but to eliminate injustice. The Savior taught if any person has done an injustice to another so that the injured party needs to seek redress, the offender should do more than merely pay that which is due, he should in spirit give his cloak also (see Matthew 5:40). Efforts of conciliation and reconciliation and compromise are elements of the higher law. ✿ The mission statement of the J. Reuben Clark Law Society is: “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 on the rule of law.” These two statements suggest that there is a higher standard of conduct expected of the graduates of the Law School and members of this Law Society. Wherever we live we may need to break with certain trends of the legal establishment as it is today. When the profession has in some ways strayed from high professional principles, perhaps we have some duty to point the way. ✿ I presume that most if not all of you have had the gift of the Holy Ghost bestowed upon you.

→ BY PRESIDENT JAMES E. FAUST ←

By this transcending gift we are told that we can learn all things and “know the truth of all things” (Moroni 10:5). Thus we can enjoy discernment of things that cannot come in any other way. This is true not only in our professional lives but also in our family, Church, and public lives. Advocates even as angels need to speak “by the power of the Holy Ghost” (Moroni 10:5). The great truths taught by King Benjamin were given to him by an angel who said unto him, “[H]ear the words which I shall tell thee” (Mosiah 3:3). This is a pretty reliable source of information. The founders and supporters of the J. Reuben Clark Law School have hoped that you could be men and women of profound legal competence without being tainted by any of the pernicious selfish influences that tend to corrupt and abuse the legal system. One can’t help wondering if in some instances the tort judicial system in the United States is being abused because of the exorbitant punitive damages that are sometimes being awarded. A few of them bear no relationship to reasonable compensation. The lawyers must bear some of the responsibility for this, because some of the cases are taken on a contingent fee basis. It is hard to change human nature, because greed is a basic human weakness. The compensation a lawyer receives ought not to be his primary interest. The interest of the client always has to be the first consideration. If you will follow that rule, you and your family will be taken care of.

The day when a young lawyer passes the bar and hangs out his shingle (as I did) and hopes some clients will come to him is probably over. My first month after paying my expenses I made three dollars, and it didn’t improve very rapidly. But my wife and I took comfort from my patriarchal blessing, which said that I would have sufficient means to take care of my wife, my family, and myself. She stayed home with the children, and looking back on it, I don’t know how we did it, but my patriarchal blessing in that regard was completely fulfilled. I could have made more money by simply charging more for my services, but that was a conscious decision on my part. The Lord’s hand is in the affairs of those who seek to do His will. Things work out in unexpected ways. When I was a 28-year-old bishop, only a few months in the practice of the law, we had a Relief Society bazaar in our ward. I was flat broke, and my wife and I wondered how we were going to support the Relief Society bazaar. The very day of the bazaar some money came in that was totally unexpected, which strengthened my faith and made it possible for the bishop to do his duty. I believe that if you conscient-



tiously render the service to your clients, and strive to be worthy, the Lord will take care of you.

To you law students who are in attendance tonight, I pass on a warning written in July 1850 by Abraham Lincoln:

There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. Yet the impression is common, almost universal. Let no young man choosing the law for a calling for a moment yield to the popular belief—resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer.

[*The Collected Works of Abraham Lincoln*, vol. 2 (Rutgers University Press, 1953, 1990), p. 81]

When I was a young practicing lawyer, there was an older member of the bar who was considered a very skilled advocate, but as a person he was nothing more. He was a fierce opponent and knew all of the tricks of the trial advocacy. His personal life was reprehensible. He was never involved in humanitarian efforts. To my knowledge, he never served on a community committee, never ran for nor held public office. He did not evidence one scintilla of spirituality. Others with less natural talent but more character were far more successful and much happier.

To be fully successful in the law, one does not have to be brilliant or exceptionally gifted. The most effective work of the world is done by ordinary people who put forth extraordinary effort. This is true of lawyers. Our strengths are magnified with experience and inspiration. I also believe that while practicing law we can still maintain our humanity, that we ought to be patient and forgiving—although, as some witty person quipped, “To err is human; to forgive would put a lot of attorneys out of work.”

Our lawyers need to be more than successful advocates. We need to bring our sacred religious convictions and standards to the practice of law. To do otherwise would bring an inconsistency to our character. There always needs to be a connection between having an involvement in the law

The Decided Are Always Gentle

INTRODUCTION OF PRESIDENT JAMES E. FAUST PRIOR TO HIS REMARKS

by Elder Lance B. Wickman

An Apostle by calling and a lawyer by training, President James E. Faust is one of the most well-known and well-loved men in the Church. He is certainly no stranger to this vast congregation united across continents by common conviction and profession. That President Faust almost instinctively deflects praise and recognition aimed in his direction does not make the task of paying tribute to him any easier. But I have elected to proceed anyway, because I believe that this evening the man is as important as his message; in fact, the man is the message.

Born in Delta, Utah, the second son of George Augustus and Amy Finlison Faust; President Faust’s titles include missionary in Brazil; officer in the United States Army during the Second World War; law student at the University of Utah; practicing lawyer in Salt Lake City for 25 years; and Church General Authority for more than 30 years, including membership in the Quorum of the Twelve Apostles and, for the past 8 years, Second Counselor in the First Presidency. He has served at various times in the Utah State Legislature, as a member of the Utah Constitutional Revision Commission and the Legislative Study Committee, and as president of the Utah Bar Association, all the while serving variously in the Church as bishop, counselor in a stake presidency, stake president, or Regional Representative. Merely reciting those unvarnished facts discloses a life rich in capacity, diverse experience, and service.

But that is not the man I would introduce this evening. I wish to speak in a somewhat more personal way about one who I have come to love and sustain through a period of years of close association as a prophet, apostle, associate, mentor, and friend. As I have thought about these remarks tonight, my recollection has been drawn to a comment made by a professional colleague some years ago. He said that as a young lawyer he inquired of a prominent judge in his community what it takes to be a successful courtroom advocate. This wise jurist responded with five words, words that in my judgment are profound in their own right and reach far beyond the courthouse and—more to the point here this evening—that are profoundly descriptive of President James E. Faust. He said, “The decided are always gentle.” “The decided are always gentle.”

I think that judge meant that the truly great soul radiates a serenity and gentility—a rock-solid integrity mixed with a childlike humility and kindness—that only comes to one at peace with God and with himself. Such a man is President James E. Faust—a “decided” man, a gentle man.

One cannot spend much time with President Faust and not enjoy his marvelous personal warmth and sense of humor. On one occasion, he shared with me an experience he had as a very new lawyer. He had accepted a *pro bono* appointment to represent a young man in federal court who was charged with stealing a motorcycle and transporting it across the state line. The matter was pending before Judge Tillman D. Johnson, a man of bird-like frame and a high, reedy voice who was well into his nineties. When the case was called, President Faust said, he stepped forward with his client. Judge Johnson peered down from his perch behind the bench and asked the two young men standing before him, “Which one of you is the accused?”

But, notwithstanding his engaging personal warmth, President Faust is a man of unflinching principle. He is a man for all seasons. As a young soldier in the early days of World War II, he was very much in love with the beautiful Ruth Wright. He wanted to marry her, but he could not afford to do so on a private’s meager wage. So, he applied to become an officer. With much at stake, he was summoned before a panel of hard-bitten professional Army officers as part of the qualification process—men whose personal lifestyle and values were different than he had been taught. To his surprise he found himself being questioned about his religious beliefs. One officer asked him whether he prayed and whether he believed an officer *should* pray. President Faust responded frankly that he did pray and, further, that he thought prayer an appropriate activity in which an officer should be prepared to lead his men. Then came a real curve ball. He was asked whether the unusual circumstances of wartime did not justify men in departing to some degree from the code of personal morality they would otherwise follow in less challenging times. Realizing that this panel of officers likely held just such a view, and with his dream of marrying his beloved Ruth hanging in the balance, President Faust nonetheless simply said, “I do not believe there is a double standard of morality” (James E. Faust, *Stories from My Life* (Salt Lake City: Deseret Book, 2001), pp. 2–3). I cannot think of President Faust without also thinking of a statement attributed to U.S. President Harry S. Truman, “When in doubt, do what’s right.”

It is my observation that this unflinching devotion to principle is born of an unshakable confidence in the Lord. More than once as we have wrestled with a difficult situation that seemed to defy solution, he has said to me, “Lance, never forget whose work this is. It is the Lord’s work, and He will see us through.”

And so, brother and sisters, it is my great honor this evening to introduce you to our speaker and guest of honor, our very own Apostle James—President James E. Faust, Second Counselor in the First Presidency of The Church of Jesus Christ of Latter-day Saints.

Elder Lance B. Wickman, a member of the First Quorum of Seventy, is legal counsel for The Church of Jesus Christ of Latter-day Saints.

and living the gospel. In a sense we are all “able ministers of the new testament; not of the letter, but of the spirit: for the letter killeth, but the spirit giveth life” (2 Corinthians 3:6).

The kind of a lawyer you are depends in large measure upon your character. If you are going to point the way, you need to be more than skilled advocates. You need to be decent human beings trying to solve problems. You need to be teachers as well as advocates and draftsmen. You can do this best by personifying the lessons learned from being a good example. To be a good example it will be necessary for you to carefully guard your good name. As William Shakespeare said,

*Good name in man and woman, . . .
Is the immediate jewel of their souls:
Who steals my purse steals trash; 'tis something,
nothing;
'Twas mine, 'tis his, and has been slave to thousands;
But he that filches from me my good name
Robs me of that which not enriches him,
And makes me poor indeed.*
[William Shakespeare, *Othello*, Act iii, Scene 3]

Despite all of the lawyer jokes, such as Shakespeare's quip through Dick in his play *King Henry VI Part II*, “Let's kill all the lawyers,” as an individual you may be accorded respect and positions of honor and trust. This may be in public life as well as Church callings that may come to you. While as a group, lawyers are often criticized, as individuals most are appreciated. As Lincoln said, “They are accorded honor and confidence.” Your clients often become lifetime friends. They continue to seek counsel on nonlegal matters.

I now wish to comment briefly on some special privileges practicing lawyers enjoy. You should be different from the typical citizen. You can ask questions of people which, when asked by others, would be considered unthinkable. Some of the answers you receive are privileged and, as you know, protected by law. They contain some of your clients' deepest feelings and confidences. Some things disclosed may be embarrassing and others sacred. These answers are to be held inviolate. I do not wish to be unfair, but I have observed that some law students and lawyers are inclined to have inflated egos. They think they have the answer to everything. Speaking for myself, however, I know I don't. When some questions come up I find myself saying, along with Yogi Berra, “I wish I had an answer to that because I'm tired of answering that question. If you ask me anything I don't know, I'm not going to answer.” I commend to you the words of Shakespeare, “There's nothing so becomes a man / As modest



stillness and humility” (*King Henry V*, Act iii. Sc. 1). Even after we have gained some experience, it doesn’t do to get complacent or smug about our ability. It’s good to remember what Will Rogers once said, “Even if you’re on the right track, you’ll get run over if you just sit there!”

To those of you who are practitioners, a few simple suggestions learned the hard way over half a century at the bar might include:

Don’t get so overly involved in your client’s cause that you lose your balance, good judgment, and sense of humor.

Sublimate your own ego to the greater need of helping your client.

At all costs, keep your own integrity.

Don’t let your client establish the rules of your conduct.

Communicate: keep your client informed, and without compromising your client’s cause, keep communication open with your opponent.

Never commingle other people’s money with your own.

Protect yourself by making an adequate record.

This can all be summed up in the principle that we should never do anything to offend the spirit.

Thirty years ago when I was first called as a General Authority of the Church, I had an office full of matters, some of which had been pending for some time. It took a few months to get them resolved. The remarkable thing that happened was that I never had to go back into court again on a contested matter. It was like the waters of the Red Sea had parted. One longstanding, complex case got quickly resolved when my opposing attorney and I sat down and began to communicate. One by one the complexities got adjusted, and when it came to the settlement of the money claim, my opponent was so pleased to have the other issues settled that he offered to pay more money than had we asked. I informed him that we would stand by our previous figure, which was less than he eventually paid, because he insisted on paying more to get the whole matter settled.

The adversary system has been proven over the centuries to be the best way to get to the ultimate truth of the facts. However, my sons who are lawyers tell me the system has become far too contentious and disagreeable.

In my lifetime I have seen the majesty of the law cheapened under the theory that the end of winning justifies the means. To many the trial of the O. J. Simpson case was a soap opera. We have seen the legal system abused by having the issues tried in the newspapers before and during the trials rather than on the law and the facts. Historically the legal system developed as a means of resolving differences and preserving peace. I find much wisdom in the statement in Proverbs, “When a man’s ways please the Lord, he maketh even his enemies to be at peace with him” (Proverbs 16:7). The spiritual gifts we can enjoy by obedience to our religious convictions can work in remarkable ways in our attempts to help resolve differences. The pursuit of justice is a very noble path, but obtaining justice is often very elusive, because what is justice to one is considered injustice to another. In some ways a more noble effort is to resolve differences by being a peacemaker. I quote again from Abraham Lincoln, who advised: “Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be enough business” (“Notes for a Law Lecture” (July 1, 1850?), *The Collected Works of Abraham Lincoln*, vol. 2 (Rutgers University Press, 1953, 1990) p. 81).

John W. Davis, senior member of the New York City law firm of Davis, Polk, spoke about promoting peace:

True, we build no bridges. We raise no towers. We construct no engines. We paint no pictures—unless as amateurs for our own amusement. There is little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men’s burdens and by our efforts we make possible the peaceful life of men in a peaceful state. [John W. Davis, Address at 75th Anniversary Proceedings of the Association of the Bar of the City of New York, March 16, 1946]

Before the wounds of injustice can heal, there must first come a feeling of peace. So, in a sense, a lawyer who helps make peace becomes something of a healer. A good beginning for settling controversy is to try

to lower the tension between the real parties in interest. This may require some persuasion of your own client. A lawyer acquaintance of mine invariably became so intense in his client’s cause that as a tactic before trial he would threaten, browbeat, and insult opposing counsel. In one instance, he gratuitously but personally insulted opposing counsel in a parking lot while they were going to their cars. His opponent was older and bigger and responded by putting a headlock on him. The gossip from that event traveled fast through the bar circles. My acquaintance became the butt of unkind jokes and was unfairly branded. Unfortunately, he didn’t learn from that experience. He never apologized to his adversary or tried to make it right in any way. As a result of his personal belligerency he was rarely able to settle matters and thus did a disservice to his clients. He was always trying to make big waves instead of calming the waters.

All professionals, including lawyers, need to find a balance between the demands as servants of God, as parents, and as advocates and lawyers. As a wise person once said, “The things that matter most cannot be left to the mercy of the things that matter the least.” I think the Savior Himself established the priorities well in the book of Matthew (Joseph Smith Translation) 6:38, when he said, “Wherefore, seek not the things of this world but seek ye first to build up the kingdom of God, and to establish his righteousness; and all these things shall be added unto you.”

I bear witness of the truthfulness of the restored gospel and pray that the mercy of that gospel will bless us all, in the name of Jesus Christ, amen.

PHOTO CREDITS

Photographs by Dr. Dain Tasker. Courtesy Howard Greenberg Gallery, NYC. Page 2, *Lily*, 1930. Page 4, *Lotus—Wide Open (variant)*, 1935. Pages 1, 6; *Amazon Lily (variant #2)*; c. 1930.

In 1930 Dr. Dain L. Tasker, an amateur photographer and a successful radiologist practicing in Los Angeles, turned his attention to the exposure of flowers using X ray as his negative. The delicately translucent images were exhibited as works of art, not just scientific documents. Although published in the prestigious U.S. Camera magazine in October 1939, Tasker’s floral X rays have been largely overlooked until recently.