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THE FOLLOWING REMARKS WERE  
GIVEN AT A FIRESIDE DURING THE ANNUAL  
J. REUBEN CLARK LAW SOCIETY  
CONFERENCE IN WASHINGTON, D.C.,  
ON FEBRUARY 15, 2013.  
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# FAITH, FAMILY, AND

ELDER JEFFREY R. HOLLAND



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BRADLEY SLADE  
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# RELIGIOUS FREEDOM

OF THE QUORUM OF THE TWELVE

## THANK YOU FOR THE PRIVILEGE OF SPEAKING TO YOU TONIGHT.

As has been mentioned, I had the good fortune to be part of the founding of the J. Reuben Clark Law Society during my presidential years at BYU and part of the creation of its first chapter here in Washington, D.C. So this is a particularly sweet moment for me to come back to the maternity ward where this baby was born and note what a dazzling 25-year-old that child has become.

I have in my hand a copy of the program from that night in November 1987 when we formed the first chapter here. To look at it is to take a delightful stroll down memory lane. What a wonderful—and, as it turns out, historic—evening that was, the significance of which is at the heart of our 25th-anniversary activities this week. I am not sure any of us that night conceived of a society that would grow into what this organization has become. You are individually and collectively a very bright light for Brigham Young University, for J. Reuben Clark Law School, and for The Church of Jesus Christ of Latter-day Saints. Congratulations.

I must also mention, however, that I feel pretty intimidated to be here. That can best be summarized not by the number of billable hours your presence tonight represents but rather by one of my favorite Ernest Wilkinson stories, Ernest being another wonderful link between Washington, D.C., Brigham Young University, and J. Reuben Clark Law School. In the latter part of his tenure at BYU, Ernest gave a significant assignment to a committee chaired by a leading faculty member who was, as I recall, teaching in the liberal arts or behavioral sciences. I don't remember exactly what the assignment was nor who the faculty member happened to be, but he was an able man in any case. When the time for the report came due, the chairman submitted the committee's findings in writing, complete with recommendations.

Ernest went ballistic. I don't know what findings and recommendations he wanted, but they obviously were not these. He went red in the face, chewed on the inside of his cheek, as he was wont to do when excited, and generally raged unrestrained for several minutes. The wallpaper peeled back in a place or two. The lights in the room flickered at least twice. All breathing by those present ceased. Then, as quickly as he had exploded, Ernest grew absolutely calm. A more natural color returned to his face and he stopped chewing his cheek. His eyes came back into focus, and the electric circuits serving the room and the man both seemed to be back to normal. With a steady gaze out his window toward the snowy summit of Mount Timpanogos, Ernest threw the report on the desk and in full philosophical resignation muttered to no one in particular, "Well, what can you expect from a man *not* trained in the law!"

Can you imagine the indictment I feel as I stand before you tonight, someone "not trained in the law"? It is almost more than I can bear. Even in my 73rd year I stand before you ashamed I did not go to law school. I apologize. In spite of this severe handicap I will do my best, lest I see some of you going red in the face and chewing on the inside of your cheek.

Of the many issues we could discuss tonight, let me touch on just three that my Brethren and I talk about a good deal as we look at the world around us in the initial years of the 21st century. You will recognize quickly that these are not necessarily new issues—and they are not uniquely Latter-day Saint in nature, though they may increasingly be "latter day" in nature. They are, I am sure, things you have thought about as LDS professionals, LDS parents, and LDS citizens in communities large and small. These three issues are faith, family, and religious freedom.

## FAITH

In his influential book of a few years ago, *A Secular Age*, Charles Taylor called secularism the shift "from a society in which it was virtually impossible not to believe in God, to one in which faith, even for the staunchest believer, is [only] one human possibility among others. . . . Belief in God is no longer axiomatic."<sup>1</sup> Our era has been given other labels—post-Christian and postmodern, to name two—but they are of a piece with Taylor's thesis. Such an age, whatever it is called, has created a climate for popularizing the diminution or minimization of religious faith in a way that is unprecedented in Western culture—or certainly in American culture. Just so very few years ago anyone openly advocating atheism would surely have had a scarlet *A* seared upon his or her breast as a warning to all who would come near. But listen now to Richard Dawkins:

*Only the willfully blind could fail to implicate the divisive force of religion in most, if not all, of the violent enmities in the world today. . . . Those of us who have for years politely concealed our contempt for the dangerous collective delusion of religion need to stand up and speak out.*<sup>2</sup>

And many have. After Sam Harris published his provocative *The End of Faith* in 2004, Christopher Hitchens, Daniel Dennett, Dawkins himself, and their band of “New Atheists” have achieved near-celebrity status publishing a deluge of texts decrying belief in God. Hitchens spoke for most of them when he said, “One reason I have always detested religion is its sly tendency to insinuate the idea that the universe is designed with ‘you’ in mind or, even worse, that there is a divine plan into which one fits.”<sup>3</sup> (Of course Hitchens has just recently passed away and may now have newer views on the idea of a divine plan. And never mind that militant atheism is the ultimate untenable position, simply because it would take someone with God’s omniscience and omnipresence to be sure that nowhere in the universe was there such an omniscient and omnipresent being. Catch 22. But I digress with philosophical nitpicking.)

Then we have the larger ranks of the agnostics, the more nuanced of which pick and choose from the smorgasbord of religion, admiring the “rational” or “service-oriented” or “prosocial” parts of religion while eschewing any claims of ultimate truth, doctrines of salvation, and considerations of life after death. But there are severe problems with such positions because the historical fact of the matter is that such “vague, uplifting, nondoctrinal religiosity”—to quote national commentator David Brooks—doesn’t actually last very long, nor does it withstand anything approaching the tragic in human experience. Brooks says, “The religions that grow, succor and motivate people to perform heroic acts . . . are usually theologically rigorous, arduous in practice and definite in their convictions about what is True and False.”<sup>4</sup>

I loved what Chief Rabbi Lord Jonathan Sacks of Great Britain said a few years ago in this same vein:

*You read Jane Austen [and] you put it back on the shelf and it makes no further demand of you until you feel like reading it again. But you read a sacred text and you put it back on the shelf [and] it’s still making a demand of you. It is saying this is a truth to be lived. . . . That is the difference between religion and culture. . . .*

*. . . Unless you hear a command [or] an obligation that comes from beyond you [and I would add “from above you”], you will not be able to generate sustainable, [actionable faith].<sup>5</sup>*

But such persuasive insight notwithstanding, the cultural shift of our day, including in the United States, continues to be characterized by less and less affiliation with organized or institutional religion. “In the last five years alone, the [religiously] unaffiliated have increased from just over 15% to just under 20% of all U.S. adults,” the Pew Forum on Religious Life recently reported. “Their ranks now include more than 13 million self-described atheists and agnostics (nearly 6% of the U.S. public), as well as nearly 33 million people” (roughly 14%) who profess some kind of devotion to things spiritual but “say they have no particular religious affiliation” with an institutional church. This trend is more severe in the younger age ranges, with one-third of all U.S. adults under 30 now counted among the religiously unaffiliated.<sup>6</sup>

Allow me one aside here. Inasmuch as more than two-thirds of the religiously unaffiliated nevertheless do say they believe in God, it may well be that part of the reason for this drift away from formal church affiliation has something to do with how churches are perceived. More than two-thirds of the religiously unaffiliated say “religious institutions are too concerned with money” (70 percent) and too deeply entangled in politics (67 percent).<sup>7</sup> A word to the wise for *all* churches.

In the face of such waning religiosity—or, at the very least, waning religious affiliation—Latter-day Saints and other churches must be ever more effective in making the persuasive case for why both religious belief and institutional identity are more relevant than ever and deserve continued consideration and privilege within our society. Such appeals, however, will be met with increasingly sophisticated arguments, including from some in the legal profession.

Perhaps you have all seen Brian Leiter’s book *Why Tolerate Religion?* In it Leiter, professor of jurisprudence and director of the Center for Law, Philosophy, and Human Values at the University of Chicago Law School, argues that Western democracies are wrong to single out religious liberty for special legal protections. Fortunately, he does make a considerable case for “liberty of conscience,”<sup>8</sup> which for us is half a loaf—a very important half—but his argument does, in the end, undercut *institutional* protections that have been important in the past and may be even more important in the multicultural future of this country. It is encouraging that, *at least at present*, our First Amendment commits us to the more protective interpretation of religious freedom. We will see what future interpretations might bring.

One of the most impressive of all recent statements on the subject of religious liberty comes from Michael McConnell, director of the Stanford Constitutional Law Center and a former judge for the U.S.



IF THINGS GO WELL WITH THE FAMILY, LIFE IS WORTH LIVING;  
WHEN THE FAMILY FALTERS, LIFE FALLS APART.

—MICHAEL NOVAK

Court of Appeals for the 10th Circuit. These remarks were made recently at the Ethics and Public Policy Center here in Washington, D.C.:

*The framers of our Bill of Rights thought that religious freedom deserved double-barreled protection. Americans would have the right of “free exercise” of their chosen faith, and government was forbidden to foster or control religion by means of an “establishment of religion.” Today, an increasing number of scholars and activists say that religion is not so special after all. Churches are just another charity, faith is just another ideology and worship is just another weekend activity.*

*All Americans—believers and nonbelievers alike—should resist this argument. . . .*

*The religion clauses of the Constitution were the culmination of centuries of theological and political debate over the proper relationship between spiritual and temporal authority. . . .*

*Religion is an institution, a worldview, a set of personal loyalties and a locus of community, an aspect of identity and a connection to the transcendent. Other parts of human life may serve one or more of these functions, but none other serves them all.*

*To believers, the right to worship God in accordance with conscience is the most important of our rights. To nonbelievers, it is scarcely less important to be free of governmental imposition of a religion they do not accept.<sup>9</sup>*

So the drama of the 21st century unfolds, but as a point of reference we may do well to remember this from the original American drama of the late 18th century. In his moving farewell address George Washington said:

*Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable. . . . And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.<sup>10</sup>*

In that same spirit John Adams made this legendary statement to the officers of the Massachusetts militia in 1798:

*We have no government armed with power capable of contending with human passions unbridled by morality and religion. Avarice, ambition, revenge, or gallantry, would break the strongest cords of our Constitution as a whale goes through a net. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.<sup>11</sup>*

It was said of us a long time ago that “the Americans combine the notions of [religion] and of liberty so intimately in their minds, that it is impossible to make them conceive the one without the other.”<sup>12</sup> May it ever be so.

## FAMILY

Now a word about family. In a recent book review, Professor Amy L. Wax of the University of Pennsylvania Law School states that decreasing commitment to traditional marriage and the declining birthrates that go with this pose “an urgent and unavoidable challenge both to our continuation as a society and to our very conception of the worth of human existence.” She asks, “Is the demographic implosion a response to practical costs and benefits, . . . or does it tell us something deeper about a loss of purpose or faith?”<sup>13</sup>

In an article in the *Weekly Standard*, Jonathan Last says it may be the latter. He argues that the loss of religion in America has indeed contributed to the decline in marriage, birth rates, family solidarity, and even a robust democracy. “Marriage,” he writes, “is what makes the entire Western project—liberalism, the dignity of the human person, the free market, and the limited, democratic state—possible.”<sup>14</sup>

This plea for marriage was underscored in a recent article from the Witherspoon Institute:

*The foundation for a productive household begins with marriage. Other arrangements cannot measure up, not for the child, not for the couple, not for society, and certainly not for the economy.*



IF WE WANT DEMOCRACY  
TO WORK AND SOCIETY TO  
BE STABLE, PARENTS  
MUST NOURISH A CHILD'S MIND  
AND HEART AND SPIRIT.



... If marriage makes the world and economy go 'round, these newer family structures truncate productivity, and society begins to limp along.<sup>15</sup>

The gifted Michael Novak takes a similar tack in his eloquent commentary on the family:

*Clearly, the family is the seedbed of economic skills, money habits, attitudes toward work, and the arts of financial independence. The family is a stronger agency of educational success than the school. The family is a stronger teacher of the religious imagination than the church. Political and social planning in a wise social order begin with the axiom What strengthens the family strengthens society. Highly paid, mobile, and restless professionals may disdain the family (having been nurtured by its strengths), but those whom other agencies desert have only one institution in which to find essential nourishment.*

***The role of a father, a mother, and of children with respect to them, is the absolutely critical center of social force.*** *Even when poverty and disorientation strike, as over the generations they so often do, it is family strength that most defends individuals against alienation, lassitude, or despair. The world around the family is fundamentally unjust. The state and its agents, and the economic system and its agencies, are never fully to be trusted. One could not trust them in Eastern Europe, in Sicily, or in Ireland—and one cannot trust them here. One unforgettable law has been learned painfully through all the oppressions, disasters, and injustices of the last thousand years: if things go well with the family, life is worth living; when the family falters, life falls apart.<sup>16</sup>*

With current statistics telling us that “worldwide, there are . . . 40 million abortions per year” and that “41 percent of all births in the United States [are] to women who [are] not married,”<sup>17</sup> we should be declaring boldly that inherent in the very act of creation is, for both parents, a lifelong commitment to and responsibility for the child they created. No one can with impunity terminate that life, neglect that care, nor shirk that responsibility. Paul wrote to Timothy, “But if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.”<sup>18</sup> If Paul could see our day, surely he would repeat that counsel and would mean more than providing physical nourishment, essential as that is. If we want democracy to work and society to be stable, parents must nourish a child’s mind and heart and spirit. Generally speaking, no community of whatever size or definition has enough resources in time, money, or will to make up for what does not happen at home.

So rather than redefining marriage and family as we see increasing numbers around us trying to do, our age ought to be reinforcing and exalting that which has been the backbone of civilization since the dawn of it. I leave with you this final quote on that subject from David Brooks, with a phrase or two of my own added:

*At some point over the past generation, people around the world entered what you might call the age of possibility. [Another label for our time.] They became intolerant of any arrangement that might close off their personal options.*

*The transformation has been liberating, and it’s leading to some pretty astounding changes. For example, for centuries, most human societies forcefully guided people into two-parent families [with a father and a mother who were devoted to each other]. Today that sort of family is increasingly seen as just one option among many. . . .*

*My view is that the age of possibility is based on a misconception. People are not better off when they are given maximum personal freedom to do what they want. [People are] better off when they are enshrouded in commitments that transcend personal choice—commitments [to traditional marriage and time-honored family life].<sup>19</sup>*

## RELIGIOUS FREEDOM

Let me now say something about freedom of religion with its underlying girder of “freedom of conscience” as the last of our three contemporary issues tonight.

In Dostoevsky’s masterpiece *The Brothers Karamazov*, we find one of literature’s most enduring meditations on the complexity of freedom. In the section featuring “the Grand Inquisitor,” a clergyman interrogates the Savior after He has returned to earth only to be arrested by the church’s authorities.

Simon Critchley writes:

*For the Grand Inquisitor, what Jesus brought into the world was freedom, specifically the freedom of faith. . . . And this is where we perhaps begin to sympathize with the Grand Inquisitor. He says that for 1,500 years, Christians have been wrestling with this freedom. The Grand Inquisitor [says that he himself], when younger, also went into the desert, lived on roots and locusts, and tried to attain the perfect freedom espoused by Jesus. “But now it is ended and over for good,” [and] he adds, “After fifteen centuries of struggle, the Church has at last vanquished freedom, and has done so to make men happy.”*<sup>20</sup>

Aside from condemning the traditional Christianity of that time, the sadness here, of course, is that the Grand Inquisitor’s position is tragic: he yields to the thought that the truth which sets us free is too demanding, too insistent—ultimately a bridge too far. But as Christ Himself taught, so say we: that although freedom is demanding, it is *not* too demanding. The Father’s plan and His Beloved Son’s gift optimistically endow humans with both the ability and the responsibility to make choices with the hope—indeed the confidence—that we will ultimately choose that which benefits the individual and the larger society in which those individuals live. At its best, this is precisely the hope of democracy as well. Inherent in liberal democracy is an assumption, a hope, and a belief that free people will use their liberty to choose good over evil, right over wrong, virtue over vice.

For that reason the United States continues to espouse civil liberties, including that precious “first freedom” of religion, which informs the choices we must make in life.

Does religious freedom and its open expression matter beyond one’s individual faith or particular religious persuasion? Allow me a long anecdote on that subject from our friend Clayton Christensen. He said:

*I learned the importance of this question in a conversation 12 years ago with a Marxist economist from China who was nearing the end of a fellowship in Boston, where he had come to study two topics that were foreign to him: democracy and capitalism. I asked my friend if he had learned here anything on these topics that was surprising or unexpected. His response was immediate . . . : “I had no idea how critical religion is to the functioning of democracy and capitalism.” . . . He continued,*

*“In your past, most Americans attended a church or synagogue every week. These are institutions that people respected. When you were there, from your youngest years, you were taught that you should voluntarily obey the law; that you should respect other people’s property, and not steal it. You were taught never to lie. Americans followed these rules because they had come to believe that even if the police didn’t catch them when they broke a law, God would catch them. Democracy works because most people most of the time voluntarily obey your laws.*

*“You can say the same for capitalism,” my friend continued. “It works because Americans have been taught in their churches that they should keep their promises and not tell lies. An advanced economy cannot function if people cannot expect that when they sign contracts, the other people will voluntarily uphold their obligations. Capitalism works because most people voluntarily keep their promises.” . . .*

[Such expressions mirror those of] Lord John Fletcher Moulton, the great English jurist, who wrote that the probability that democracy and free markets will flourish in a nation is proportional to “the extent of obedience to the unenforceable.”<sup>21</sup>

Fortunately we are hanging on to some symbols of what the Founders gave us by way of such a public religious heritage—though in light of what Clayton shared, you may find this as ironic as I do coming from someone in mainland China. Recently on Chinese social media the religious iconography of the president’s inauguration ceremony stimulated an interesting discussion about the role of faith in American democracy.

“Some Chinese find it unbelievable that this secular country’s democratically elected president was sworn in with his hand on a Bible, not the Constitution, and facing a court justice, not Congress,” wrote one Chinese blogger in an online post forwarded more than 2,000 times. “But actually, this is the secret of America’s constitutional democracy: It’s not just the Constitution or the government’s ‘separation of powers.’ Above that is natural law, guarded by a grand justice. And below is a community of Christians, unified by their belief.”<sup>22</sup>

Of course America is more than “a community of Christians,” but it may be sufficient to note that someone in China sees enough evidence or knows enough history to believe that she still has a strong streak of Christianity in her. We hope so. We pray so.

## THE HOPE AND PROMISE OF DEMOCRACY

Faith. Family. Freedom. Big issues with great complexities. Big issues inextricably linked with the hope and promise of democracy. Big issues that are intertwined, interlinked, and interlocked so tightly that when one of them is struck, the other two are damaged; so that when one of them is cut, the other two will bleed.

Whatever our challenges, I take great encouragement in this thought from the most insightful observer of American culture who has ever written on the subject but who was (irony of ironies) not an American himself. Alexis de Tocqueville wrote: “The great privilege of the Americans does not simply consist in their being more enlightened than other nations, but in their being able to repair the faults they may commit.”<sup>23</sup>

Whatever our faults are, they can be repaired, and whatever our strengths are, they can be maintained. You are among the finest and best trained we have to defend, to advocate, to plead, and to appeal for the great faith, the strong families, and the religious freedom for which and upon which this republic was founded. God bless you in the powerful and virtuous practice of the law.

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