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FIG. 1. Detail from *Resurrection in the Valley of Life*, a panel of the Ezekiel mural in the synagogue at Dura Europos. Image from Carl H. Kraeling, *The Synagogue, The Excavations at Dura-Europos, Final Report 8, Part 1*, ed. A. R. Bellinger et al. (New Haven, Conn.: Yale University Press, 1956), plate 70. Images used by permission.

# The Ezekiel Mural at Dura Europos

## A Witness of Ancient Jewish Mysteries?

*Jeffrey M. Bradshaw*

One of the most stunning archaeological finds of the last century was the accidental discovery in 1920 of the ruins of Dura Europos,<sup>1</sup> “a frontier town of very mixed population and traditions”<sup>2</sup> located on a cliff ninety meters above the Euphrates River in what is now Syria. This Hellenistic city had been abandoned following a Sassanian siege in AD 256–57 and was eventually buried by the shifting sands. Among the structures uncovered by excavation was a small Jewish synagogue with elaborately painted walls, preserved only because the building had been filled with earth as a fortification during the siege.

The purpose of this article is to draw greater attention to the Ezekiel cycle, depicted in an important mural found in the synagogue. In particular, this article agrees with Yale religion scholar Erwin R. Goodenough that early Jewish mysticism plays a central role in the program of decoration for this synagogue. If such an interpretation is sustained, the art of the Dura synagogue constitutes the most convincing physical evidence available that the Jewish mysteries described in ancient sources may have had a tangible expression in ritual.

Following a brief account of the discovery of the synagogue and the general significance of its artwork, I will review some of the Dura paintings that attracted the attention of Goodenough and also Hugh Nibley. Both of these scholars interpreted the artwork surrounding the Torah shrine in the Dura murals as revealing heavenly ascent as a central theme in the program of these synagogue decorations, especially in light of the writings of Philo Judaeus of Alexandria, a Jewish scholar of the first century. I will then discuss the main features of the Ezekiel paintings, using Goodenough’s detailed descriptions of each panel complemented with findings from more

recent research and my own analysis. The analysis will highlight significant themes in the Ezekiel mural relevant to resurrection and heavenly ascent. Throughout this discussion, themes relating to Latter-day Saint temple worship will become apparent. I will conclude with a brief review of recent research in which I will argue that Goodenough's overall interpretive

### Jeffrey M. Bradshaw

I've always been interested in the way art can illuminate religion. Sometimes, of course, things can simply be said better in pictures than in words. In other cases, like at Dura Europos, art and architecture become just about the only means to look into the hearts and minds of ancient believers. For example, it is only in recent years that scholars have been able to locate convincing textual confirmations of the kind of worship that had been hinted at in the art of the Dura synagogue. Even after the discoveries of relevant texts, one has a sense of intimacy with the Jews of Dura through the synagogue paintings that is hard to re-create through reading.



I remember the sense of excitement I had when I ran across photographs of the Ezekiel mural while doing research for my commentary on the Book of Moses. Here was something from a remote time and place that spoke to me deeply. When I read Goodenough's descriptions of the paintings, I realized the magnitude of what his erudition had achieved without the benefit of the recent explosion of scholarship on relevant topics. Of course, in addition, there are practically no dark corners of ancient studies in which an LDS scholar can poke around without encountering Hugh Nibley as a welcome companion. Like Kilroy, he always seems to have gotten everywhere first. Surprisingly, however, though Nibley, like Goodenough, had recognized the importance of the Dura tree of life panel, he had apparently overlooked the equally stunning significance of the Ezekiel mural. In the year that marks the hundredth anniversary of Hugh Nibley's birth, I feel it an honor to be able to place a small stone on the mountain of his scholarship.

framework for the paintings at Dura, while generally rejected at the time it was advanced, can now be seen as having anticipated recent trends in scholarship on the liturgical practices of relevant strands of Judaism, especially those focused on the temple and its priesthood.

### **The Dura Europos Synagogue**

Originally built as a private house in a residential neighborhood, the synagogue's exterior was modest and unimpressive. However, the elaborate and well-preserved nature of many of its inner wall decorations was both astonishing and unprecedented. As described by Rachel Hachlili, "The four walls . . . were covered with remarkable wall paintings to a height of almost [seven meters]. . . . The paintings that survived include about 58 narrative episodes in 28 separate panels, 60% of the original."<sup>3</sup> After excavation in 1932–33, the painted walls and roof of baked-brick tiles were moved to Damascus, where they were reassembled and became the principal exhibit of the National Museum.

Clark Hopkins vividly describes the moment the walls were revealed to view:

I clearly remember when the foot of fill dirt still covering the back wall was undercut and fell away, exposing the most amazing succession of paintings! Whole scenes, figures, and objects burst into view, brilliant in color, magnificent in the sunshine. . . .

. . . All I can remember is the sudden shock and then the astonishment, the disbelief, as painting after painting came into view. The west wall faced the morning sun which had risen triumphantly behind us, revealing a strange phenomenon: in spite of having been encased in dry dust for centuries, the murals retained a vivid brightness that was little short of the miraculous. . . .

A casual passerby witnessing the paintings suddenly emerging from the earth would have been astonished. If he had been a Classical archaeologist, with the knowledge of how few paintings had survived from Classical times, he would have been that much more amazed. But if he were a biblical scholar or a student of ancient art and were told that the building was a synagogue and the paintings were scenes from the Old Testament, he simply would not have believed it. It could not be; there was absolutely no precedent, nor could there be any. The stern injunction in the Ten Commandments against the making of graven images would be sufficient to prove him right.<sup>4</sup>

While scholars have debated the question of what meaning, if any, lay behind the selection and depiction of the scenes in the paintings,<sup>5</sup> there is no disagreement as to the importance of the find. Jo Milgrom called the Dura synagogue the "first major Jewish artistic monument ever unearthed"

and noted that “extensive figural decoration of similar complexity does not appear in Christian art until the fifth century.”<sup>6</sup> Mikhail Rostovtzeff said it was “the Pompeii of the Syrian Desert.”<sup>7</sup> Goodenough observed that “before the discovery of the Dura synagogue in 1932 anyone would have been thought mad who suggested that Jews could have made such a place of worship.”<sup>8</sup> Nevertheless, subsequent discoveries of Jewish art throughout the Mediterranean world, and especially in Israel, have confirmed that the art of the Dura synagogue was not an isolated phenomenon.<sup>9</sup>

To Goodenough, the art and layout of the synagogue suggested a group with a “mystical” orientation to worship, specifically involving the liturgical experience of heavenly ascent.<sup>10</sup> Eminent Jewish scholar Jacob Neusner sees such a development at Dura as no surprise, given that in this region around AD 220–50 other significant religious movements with strong mystical components were also taking form.<sup>11</sup> It should be remembered, however, that detailed descriptions of corresponding ideas relating to “Jewish mysteries” were already to be found centuries earlier in the writings of Philo—writings whose core elements may go back to the First Temple period and arguably relate to its distinctive rites and theology.<sup>12</sup>

### The Synagogue Murals

Whatever limited awareness most LDS readers may have of the Dura Europos synagogue paintings is probably due to the writings of Hugh Nibley. Nibley concurred with Goodenough’s reaction to the discovery, further remarking:

In these impressive murals we see such unexpected things as the bread and wine of the Messianic meal [figs. 6 and 7], reminding us of the sacrament; we see the wandering of Israel in the desert with the waters of life flowing in twelve miraculous streams, with “the head thereof a little way off” (1 Nephi 8:14) to each of the tribal tents [fig. 2].<sup>13</sup>

Due to the number and complexity of the synagogue’s wall decorations, it will be impossible to describe most of them in any detail here. However, I will briefly introduce two example murals (figs. 2 and 3) that depict story details not found in the Bible. Both of these murals attracted Hugh Nibley’s interest. Then I will discuss the perspectives of Goodenough and Nibley on the important Torah shrine and tree of life paintings in order to set the context for a more extensive description of the Ezekiel mural below. The mural titles used in the captions are Goodenough’s designations.

*Two example murals.* In the first mural (fig. 2), Goodenough observed that the garment Moses wears, which matches the lining of Aaron’s priestly robe, “seems to be saying that Moses is here functioning on the Aaronic



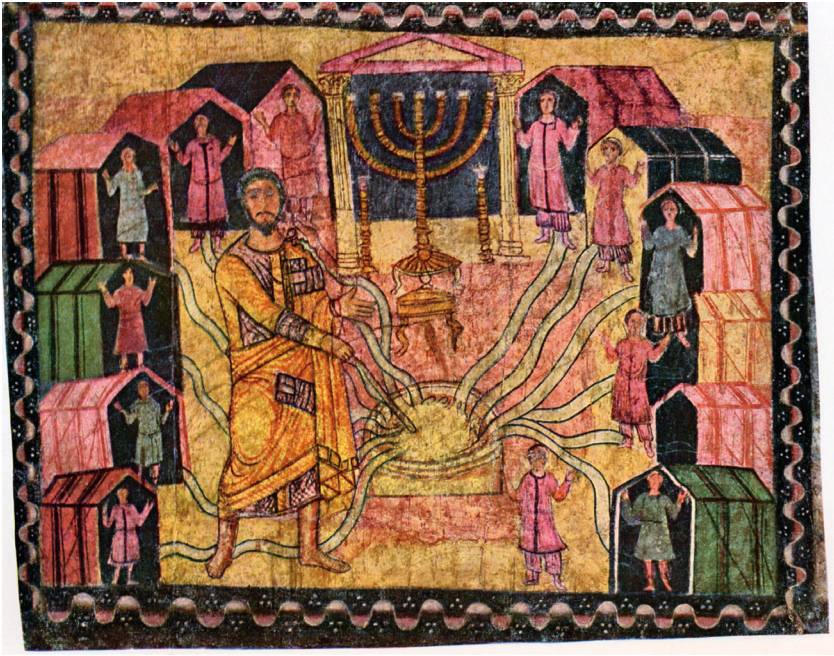


FIG. 2. *The Well of the Wilderness: Moses Gives Water to the Tribes*. Located on the far left side of the synagogue's west wall, in the second of three rows of murals. Image from Kraeling, *The Synagogue*, plate 59.



FIG. 3. *The Ark versus Paganism*. Located on the west wall, far right, second row. Image from Kraeling, *The Synagogue*, plate 56.





FIG. 4. *The Torah Shrine*. Located in the lower center of the west wall. Image from Kraeling, *The Synagogue*, plate 51.



level.”<sup>14</sup> John Lundquist has discussed this image in connection with the idea of the Law as a source of living waters.<sup>15</sup>

In the second example (fig. 3), Nibley found it significant that this mural contained “the oldest authentic example” of a depiction of the Ark of the Covenant, showing it as a “‘small tent’ mounted on a wagon drawn by oxen.”<sup>16</sup> In another work, he pointed out the three men in “robes standing behind the departing wagon [who] direct the oxen with their fingers. Goodenough . . . cautiously identifies the three men as those who appeared to Abraham and therefore represent God himself.”<sup>17</sup>

*The Torah shrine and the reredos.* In the center of the west wall of the synagogue was a feature designated as the Torah shrine (fig. 4). “It contained a niche into which a scroll of the Pentateuch was placed”<sup>18</sup> and was topped by a large scallop shell, a symbol that marked the sanctity of the Torah contained beneath it.<sup>19</sup> Immediately above the niche was a mural filled with symbols of Jewish worship (fig. 5): the menorah (left), a representation of the Temple in Jerusalem (center), and the sacrifice of Isaac by Abraham (right).

In front of the altar, a ram is caught in the thicket, and behind it is what appears, at first glance, to be someone in a tent. Although the figure



FIG. 5. Jewish symbols and a depiction of Abraham’s sacrifice of Isaac painted directly above the Torah shrine. Image from Kraeling, *The Synagogue*, plate 51.

is often identified as Sarah,<sup>20</sup> it is difficult to see why she would have been included in this scene. Moreover, were the figure intended to represent a female, one would expect a head covering and colored clothing, as with other Jewish women shown in the Dura murals.<sup>21</sup> Intriguingly, Margaret Barker interprets this detail of the painting of Abraham's sacrifice as "a figure going up behind a curtain held open by a disembodied hand—the symbol of the LORD. Since the temple curtain represented access to the presence of God, this seems to depict Isaac going to heaven."<sup>22</sup> In support of her conclusion, Barker cites Jewish and early Christian texts suggesting that, in the *Akedah*, Isaac literally died, ascended to heaven, and was resurrected. Of course, the themes of "death" and "resurrection" could just as easily fit a ritual context. Goldstein observed that the Torah shrine was replete with "symbols of immortality or resurrection."<sup>23</sup>

As interesting as the other panels were, however, Nibley concluded, like Goodenough, that "the most important representation of all is the central composition that crowns the Torah shrine, the ritual center of the synagogue."<sup>24</sup> This mural, which Goodenough called the *reredos* (an ornamental wall behind an altar), had been "repainted several times, until it finally pleased whoever was designing it."<sup>25</sup> The "successive alterations show that great attention was paid to the problem of what should be represented in it."<sup>26</sup>

Directly above the shrine, as if springing directly from the Law itself, is depicted a splendid tree [fig. 6] beneath whose sinuous and spreading boughs the twelve sons of Israel stand around their father Jacob; while sheltered by the branches on the other side [he]<sup>27</sup> is seen conferring his blessing upon Ephraim and Manasseh [fig. 8]. . . . "Out of the Torah shrine . . . grew the tree of life and salvation which led to the supernal throne."<sup>28</sup>

Nibley cited Goodenough's observation that the figure represents both a tree and a vine, imagery that is paralleled in the Book of Mormon.<sup>29</sup> "The olive tree that stands for Israel in the Book of Mormon imagery is also a vine; it grows in a vineyard, is planted, cultivated, and owned 'by the lord of the vineyard.'"<sup>30</sup> Nibley saw the same "free-and-easy identifications" in the Dura art as in the Book of Mormon.

Making an unprecedented appearance in Jewish synagogue art was the figure of Orpheus, the sweet singer of Greek mythology:

At Dura we see high in the branches of the tree the familiar figure of Orpheus as he sits playing his lyre to a lion and a lamb [figs. 7 and 8]. The earliest Christian art is fond of the figure of Orpheus, . . . [who] usually sings to a lion and a lamb, as in the Dura synagogue.<sup>31</sup>

Goodenough suggested that this Orpheus figure at Dura "was probably called David," through whose "heavenly, saving . . . music . . . Israel could be



FIG. 6. Sketch by Henry Pearson depicting the earliest rendition of the tree in the reredos. Image from E. R. Goodenough, *Jewish Symbols in the Greco-Roman Period*, 13 vols., Bollingen Series 37 (New York: Pantheon Books, 1953–1968), vol. 11, figure 73. Images courtesy Princeton University Press.

glorified.”<sup>32</sup> In this picture, Goodenough maintained, the artist was trying to show “the glorification of Israel through the mystic tree-vine, whose power could also be represented as a *divine love* which the soul-purifying music of an Orpheus figure best symbolized.”<sup>33</sup> Nibley connected this Orpheus figure in a tree with the tree representing “the love of God” that Lehi and Nephi saw in vision (1 Ne. 11:21–22), with Alma’s “song of redeeming love” (Alma 5:26), and with the “new song” sung by the hundred and forty-four thousand redeemed before the throne of God (Rev. 14:3).<sup>34</sup>

Goodenough did not see the paintings at Dura but viewed them in their later, restored form at the museum. The reredos, however, presented unique difficulties. It was one of the first paintings uncovered, “and the archeologists had briefly a very clear view of the overpainting. In the excitement of the moment they made no immediate attempt to photograph it. In two hours, to their consternation, the exposure to the glaring sun began to make the underpainting show through the overpainting.”<sup>35</sup> The various layers of paint became so blurred together that Goodenough called the resulting image “hopelessly confused.” Thus, his interpretation of the reredos relied heavily upon the sketches and descriptions of Comte Robert du Mesnil, Herbert Gute, and Henry Pearson, who saw them in their earlier condition.<sup>36</sup> Though the state of the reredos makes it impossible to reconstruct the course of its development definitively, there were arguably three stages of composition:

*Earliest rendition.* Figure 6 is a sketch made by Pearson, who removed the murals from Dura and restored them before they went on exhibit in Damascus. This sketch shows his conception of the earliest version of the reredos, with the tree growing directly out of the Torah shrine.

*First repainting.* Figure 7 shows Gute’s conception of an intermediate design in which the tree seems to have originally grown out of a large wine bowl rather than the small vase shown in figure 6. When the table and the feline figures were added to the left and right of the tree, the vase seems to have been painted over and a heavier trunk added. Goodenough saw ritual significance in the addition of the flanking figures, taking the objects on the table at left to represent ceremonial bread, and the serpent-topped felines as decorations for a wine bowl. A figure of King David, depicted as Orpheus and accompanied by animals,<sup>37</sup> was then painted among the branches, and a throne scene appeared at the top.

*Second repainting.* Figure 8 shows Gute’s reconstruction of the reredos as it appeared when he was making his copies, during the second year of the excavation. In this final modified version, the scene was divided into an upper and lower part by an awkward horizontal band separating the top and bottom parts of the tree. At the lower left, Jacob is shown lying



on his bed giving his last blessing to his twelve sons and, at lower right, his blessing of Ephraim and Manasseh.<sup>38</sup> Kurt Schubert, stressing the messianic-eschatological aspects of the painting, saw the Lion as a symbol of the King Messiah figure seated on the throne (Genesis 49:9–10) and the depiction of the blessing of Ephraim and Manasseh as a probable reference to the “second messianic figure, . . . the Messiah from the house of Joseph-Ephraim who was destined to suffer and die.”<sup>39</sup> In the top scene,



FIG. 7. Sketch by Herbert Gute depicting an intermediate repainting of the reredos. Image from Goodenough, *Jewish Symbols*, vol. 11, fig. 74.



FIG. 8. Painting by Herbert Gute, a reproduction of the reredos as it appeared in 1933–1934. Image from Goodenough, *Jewish Symbols*, vol. 11, fig. 323.



Goodenough saw the thirteen who had been blessed by Jacob—the sons of Israel with Ephraim and Manasseh representing Joseph in double measure—exalted in the presence of God and his two divine throne attendants.

Eliciting parallels to Lehi's vision in 1 Nephi 1, Nibley saw significance in the Dura throne scene (fig. 8) as follows:

Above “the tree of life and salvation which led to the supernal throne” was depicted the throne itself, in a scene in which God is shown enthroned in heaven, Persian fashion, surrounded by his heavenly hosts. Goodenough finds the idea both surprising and compelling: “The enthroned king surrounded by the tribes in such a place reminds us much more of the Christ enthroned with the saints in heaven . . . than of any other figure in the history of art.” . . . As this is the high point in the Dura murals, so was it also in Lehi's vision.<sup>40</sup>

*Four portraits.* While the throne scene emphasizes the divine reward of Israel as a *people*, the theme of *individual exaltation* appears also. Goodenough saw it in four portraits that surround the reredos (fig. 9).<sup>41</sup> The prominent position of these paintings and the fact that they are the only



FIG. 9. The reredos surrounded by four portraits of Moses. Image from Goodenough, *Jewish Symbols*, vol. 11, detail from plate 1.

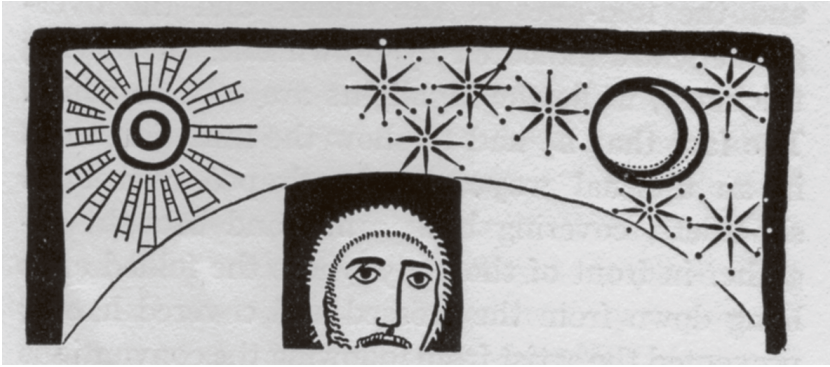


FIG. 10. Sketch of Sun, Moon, and Stars Surrounding the Final Portrait of Moses. Image from Kraeling, *The Synagogue*, p. 236.

individual portraits found anywhere in the synagogue suggest their importance. In each case, Goodenough identified Moses as the subject,<sup>42</sup> as he is shown in what seem to be the progressive sacred experiences of (1) the burning bush, (2) the receipt of the Tablets of the Law, and (3) the reading of the Law<sup>43</sup>—“exactly the incidents most stressed in the mystic account of Moses by Philo.”<sup>44</sup> The final portrait (4) shows a figure standing on the earth with the sun, moon, and seven stars (planets) above his head (fig. 10). The representation of the sun is unique in its depiction of laddered rays, recalling the well-known symbolism of the “divine ladder that connects man to God.”<sup>45</sup> Goodenough concluded that the subject is again Moses, “now in old age and ascending to heaven,”<sup>46</sup> a theme that is much more at home in the mystical Judaism of the priestly temple-oriented groups than in the more rabbinically oriented traditions.

In his description of the great and final song of Moses, Philo, in fact, gave the most plausible extant account of a scene matching this portrait, a description that would have powerfully evoked for Dura synagogue worshippers the Orpheus theme in the adjacent tree of life mural:<sup>47</sup>

Having discoursed . . . to his subjects and the heir of his headship, [Moses] proceeded to hymn God in a song in which he rendered the final thanksgiving of his bodily life for the rare and extraordinary gifts with which he had been blest from his birth to his old age. He convoked a divine assemblage of the elements of all existence and the chiefest parts of the universe, earth and heaven. . . . With these around him he sang his canticles with every kind of harmony and sweet music in the ears of both mankind and ministering angels: of men that as disciples they should learn from him . . . : of angels as watchers, observing . . . and scarce able to credit that any man imprisoned in a corruptible body could like the sun and moon and



the most sacred choir of the other stars attune his soul to harmony with God's instrument, the heaven and the whole universe.<sup>48</sup>

In the context of this interpretation, the fourth portrait of Moses in the Dura synagogue constitutes not only a witness to his own exaltation, but also an implicit invitation to all those in the congregation to follow him. In his discussion of late Second Temple Jewish mysticism, Goodenough summarized Philo's descriptions of "two successive initiations within a single Mystery," constituting "a 'Lesser' Mystery in contrast with a 'Greater,'" as follows:

For general convenience we may distinguish them as the Mystery of Aaron and the Mystery of Moses. The Mystery of Aaron got its symbolism from the great Jerusalem cultus. . . . The Mystery of Moses . . . led the worshipper above all material association; he died to the flesh, and in becoming reclothed in a spiritual body moved progressively upwards . . . and at last ideally to God Himself. . . . The objective symbolism of the Higher Mystery was the holy of holies with the ark, a level of spiritual experience which was no normal part of even the high-priesthood. Only once a year could the high-priest enter there, and then only . . . when so blinded by incense that he could see nothing of the sacred objects within. The Mystery of Aaron was restricted to the symbolism of the Aaronic high-priest. . . . In a striking passage Philo contrasts this type of priest with Moses, who . . . became the true initiate . . . , hierophant of the rites . . . , and teacher of divine things.<sup>49</sup>

Philo taught that the experience of Moses was not meant to be unique; rather, he exemplified a pattern that previously had been followed by Abraham and would continue afterward for all who belonged to true Israel.<sup>50</sup> In his role as "teacher of divine rites," wrote Philo, "[Moses] will impart to those whose ears are purified. He [the one who receives these rites] then has ever the divine spirit at his side, taking the lead in every journey of righteousness"<sup>51</sup> or, in the translation of Goodenough, "to lead one along the 'whole Road,' the entire way to perfection."<sup>52</sup>

According to Philo, . . . in Moses the "hierophant" the gulf between mortal and immortal, the cosmic and the human, has been bridged. In the presence of the sun, moon, and stars a man has sung the perfect song while yet in the body, and the faith of the angels themselves has been strengthened. Yet this great person, even as he was in the height of his grandeur, could not forget his loving-kindness to the people, and while he rebuked them for their sins, he gave them such instructions and advice that the future became full of hopes which must be fulfilled. . . . The question before us, however, is not how Philo thought but how the worshipers in the synagogue thought, or at least the elders who paid to have these extraordinary paintings on its walls.<sup>53</sup> . . . The central reredos painting seems to tell us that the leading Jews of Dura had a burning desire to leave the savagery of

bestial desires and follow the leadership of the great hierophants—Jacob at the bottom, David-Orpheus on the way, to the supreme Three at the top of the tree of life. The greatest priest-hierophant of all, for this sort of Judaism, was Moses himself, and that he should be presented in the four crucial aspects of his career was entirely fitting. Philo had himself been “initiated under Moses” and it seems to me quite likely that the Elder Samuel [who built the synagogue] may have been so “initiated” also.<sup>54</sup>

Hinting at the possibility of such ritual in the Dura synagogue, Goodenough noted: “In [a] side room were benches and decorations that mark the room as probably one of cult, perhaps an inner room, where special rites were celebrated by a select company. . . . So far as structure goes, it might have been the room for people especially ‘initiated’ in some way.”<sup>55</sup>

Goodenough’s controversial speculations about initiation rites at the Dura synagogue receive support from Crispin Fletcher-Louis’s subsequent findings on what he calls the “angelomorphic priesthood” of the Qumran community. At Qumran, Fletcher-Louis envisages the possibility of

a liturgical or cultic context for the apotheosis [that] could, in theory, be entirely compatible with . . . a real mystical or visionary experience. . . . It is . . . likely, given the cosmological significance attached to the cult, that the regular, even *routinized*, worship of a Jewish community which *considers itself* not heterodox but orthodox, would foster the belief in personal experiences of mystical transcendence and apotheosis.

. . . Before his fall Adam was ontologically coterminous with God’s own Glory. His originally divine humanity is recovered when (the true) Israel worships her god in a pure cult—a restored cosmos in miniature. And, so, by the same token she, especially her priesthood, recovers the previously lost Glory of God in the same context. In worship the boundary between heaven and earth is dissolved and the Qumran community are taken up into the life of that which they worship.<sup>56</sup>

Convinced that this perspective, first attested by evidence at Qumran, applies more generally to the wider study of Jewish mysticism over the centuries, Fletcher-Louis notes that in current research “the role of the temple and the priesthood has slowly come to the fore,” seeing the “religious experiences attested in the apocalypses” as expressions “*of the divine encounter believed to take place in and through Israel’s temple worship, especially priestly offices.*”<sup>57</sup> Elliot Wolfson specifically describes this kind of experience as a “visionary ascent to the heavenly throne and the participation in the angelic liturgy [that] would have been a preoccupation of a priestly group who, in the absence of an earthly temple, turned their attention to its celestial counterpart.”<sup>58</sup> Jewish “magical” texts give related evidence of ritual, with “an emphasis on the name of God, . . . the presence of angelic intermediaries, and . . . the invocation of divine names and use of ritual practices for

the needs of specific individuals.”<sup>59</sup> While it goes beyond the scope of the present article, Goodenough’s identification of a possible ritual for these synagogue paintings is also consistent with a growing body of literature discussing ritual initiations in Hellenistic mystery religions and early Christian traditions.<sup>60</sup>

### Ritual Ascent in the Ezekiel Mural

We are now prepared to examine the mural of the prophet Ezekiel, which offers further clues about the way in which the elements of heavenly ascent—and perhaps an accompanying ritual of ascent—may have been conceived by the designers of the Dura synagogue.

The Dura Europos depiction of its Ezekiel story-cycle runs the entire twenty-five-foot length of the north wall (fig. 11). Goodenough noted that this mural is the “largest single painting in the synagogue. . . . To have been given so much space it must have had great importance in the mind of the person who designed the decoration.”<sup>61</sup> Kraeling also considered the work “the greatest and most important composition” among all the murals.<sup>62</sup> A figure of Ezekiel appears eight times here.

*Tripartite structure.* Goodenough saw the painting as a structure of three main panels, with stages of ascent and descent being indicated by differences in the background color:

The total design . . . emphasizes most conspicuously that the first three figures of Ezekiel and the broken mountain have a light background, as does the final scene of his arrest and execution, but that between these a central section stands sharply set off by its dark background. The contrast seems to tell us that the ordinary Ezekiel existed in the realm of death at each end, a realm sharply different from that of heaven-given life where figures in the white dress of sanctity can and do come into their full exaltation.<sup>63</sup>

*Three changes of attire.* Ezekiel is shown wearing three types of clothing as these scenes unfold. His changes in clothing can be interpreted as a progression representing three different degrees of existence, just as initiates following in his footsteps would be “identified at each stage with the spiritual existence of that stage.”<sup>64</sup> The three types of clothing also recall the tripartite structure of the Jerusalem temple as interpreted in apocalyptic and Gnostic Christian writings, and the changing of the high priest from colored to white garb before entering the holy of holies in Jewish practice.<sup>65</sup> According to Philo, the greater initiation allowed Moses, “when stripped of his distinguishing [multicolored] robes, clad in simple white,”<sup>66</sup> to abide in God’s presence “while he learns the secrets of the most holy mysteries,”<sup>67</sup> and to be “changed into the divine, so that such men become kin to God and truly divine.”<sup>68</sup>



FIG. 11. *The Cycle of Ezekiel*. The full mural spans the entire lower section of the north wall.

Christopher Morray-Jones notes that the threefold structure of the temple in 1 Enoch 14 “reflects a cosmology of three heavens,” which was only later “displaced by a more complex model of seven heavens.”<sup>69</sup> Significantly, he also points out similar ideas in Philo.<sup>70</sup> George MacRae highlights a passage in the Gnostic Gospel of Philip, II, 3, that associates the three parts of the temple with three different sacraments:

It builds on the concept that one moves toward the divine presence as one moves successively through the outer courts of the temple toward the inner Holy of Holies, to which only the priest has access. Consequently the order in which the courts are identified with sacraments becomes very important. The initiatory rite of baptism is the outermost one. The rite of redemption, whatever that may have consisted of, is the second one. And it is the bridal chamber, the rite of which was the supreme rite for the Valentinian Gnostic, which is the approach into the presence of God himself.<sup>71</sup>

Despite significant differences, initiation rites in Greco-Roman mystery religions also shared the idea of “three stages of purification, illumination, and mystical unification.”<sup>72</sup> In their portrayals of these stages, an upward physical movement often paralleled a ritual heavenly ascent from darkness to increasingly greater light.

*Right hands.* A prominent feature of the first two panels of the painting (fig. 11) is a series of five divine right hands, “the first clenched in the hair





Note changes in background color. Image from Goodenough, *Jewish Symbols*, vol. 11, plate 21.

of the prophet,”<sup>73</sup> and the remaining four open and extended toward him. These hands, which may have ritual significance,<sup>74</sup> recall the Lord saving Israel “with a mighty hand, and with an outstretched arm” (Deut. 26:8),<sup>75</sup> a motif frequently exemplified in other murals of Dura.<sup>76</sup> Sometimes, in Jewish and early Christian art, the hand of God served as a visual representation of the divine voice speaking from the heavens.<sup>77</sup> Here, however, and in at least one other Dura panel, the “hand from heaven” is specifically associated with the “revivication of the dead,”<sup>78</sup> a theme not unknown in the Psalms.<sup>79</sup> In a formula repeated throughout the rabbinical literature, the “key of the revival of the dead” is mentioned as one that “the Holy One . . . has retained in His own hands”<sup>80</sup>—though this mural clearly shows that it can be delegated to others. As in Ezekiel accounts found elsewhere, the hand is extended to him “as if to give a command” and also “to give strength to perform his task”<sup>81</sup>—here evidently to bring the dead to a full measure of eternal life.

*Reversal of the hands.* Goodenough observes that two of the extended hands in the first panel are portrayed with “palms forward. In contrast over the scenes at the right the [two] divine hands are turned, still right hands, but with the nails of each finger carefully indicated to make them certainly right hands, though their position is reversed. I cannot believe that this had no significance to the artist who so carefully showed the detail.”<sup>82</sup> This

reversal may suggest a change in the relationship of Ezekiel to God as he moves from the earthly to the heavenly realms, corresponding to the “well-known shifting of garments from left to right in initiation ceremonies (e.g., of the tassel on the mortarboard at graduations)”<sup>83</sup> or the Jewish prayer shawl or robe that “is draped over one shoulder and then over the other.”<sup>84</sup> The imagery also recalls Philo’s description of two successive initiations discussed above.

Such changes may be seen as either prefiguring or actually bringing about a kind of resurrection, rising from one state of existence to another. About this aspect of the Ezekiel mural, Margaret Barker has remarked:

The idea of resurrection is certainly present; we do not know how resurrection was understood in the first temple, but resurrection was an expectation of the priests; i.e., that they were resurrected when they came into the presence of God at their consecration, and then returned to the world. This would explain Ezekiel returning to the world to face martyrdom [in the final panel of the mural].<sup>85</sup>

In any event, Goodenough concluded that something like what he calls Philo’s “higher mystery” “played a highly important part in the Judaism of Dura.”<sup>86</sup>

### Events in the Ezekiel Mural

We turn now to a discussion of the specific sequence of events depicted in the mural.

*Divine commissioning.* The Ezekiel story-cycle begins in the leftmost panel with a picture of an olive tree<sup>87</sup> bearing prominent fruit and three drawings of Ezekiel wearing typical Persian or worldly clothing (fig. 12). As Goodenough describes, “The heavenly hand lifts the first figure of Ezekiel by the hair of his head into this place of human fragments,”<sup>88</sup> sending the prophet forth, with authority, from a garden of life to preach to those who are physically or spiritually dead.

The second figure of Ezekiel is shown fulfilling God’s command to prophesy to the bones (Ezek. 37:2–7)—and implicitly also, of course, initiating a demonstration of divine resurrection for the benefit of his living audience.<sup>89</sup> “In the painting, the prophet’s right hand is open in a gesture of exposition toward the bones.”<sup>90</sup> His left hand points forward while the hand of God is extended above him.

In the third depiction of Ezekiel, he “turns to the right, pointing across his body with his right hand to a third hand of God above him. With his open left hand the prophet seems to call attention to a strange mountain beside him.”<sup>91</sup> “The mountain is split down the middle, and a small tree with



FIG. 12. *The Valley of Death and The Mountain of Transition*, the first panel in the Ezekiel mural. Image from Kraeling, *The Synagogue*, plate 69.

exaggerated fruit grows at the top of each half.”<sup>92</sup> This image of separation and judgment may recall the prophesied destruction of groves used for idol worship (Ezek. 6:13; 20:28, 47) or perhaps represents two of the trees of Eden (Ezek. 31:8–9, 16, 18).<sup>93</sup> Goodenough explained:

A castellated citadel topples upside down from the crest of the hill at the right, a building with two openings, apparently a door and a window. . . . The artist seems to be showing the [body] pieces going through the first half of the mountain, crossing the chasm, and in the second half being miraculously reassembled as whole corpses, for three such corpses lie on their backs within it. . . . Ezekiel stands at the right of the mountain, his left hand out as though he were preaching, or saying “Lo,” his right hand again lifted up toward the hand of God. He still wears the Persian costume, but his elaborately embroidered red smock has become a relatively plain one in light pink.<sup>94</sup>

*Calling forth the dead.* In the middle of the mural, the second main panel takes the viewer into the realm of resurrection in the valley of life. Ezekiel is shown wearing a much simpler garment than before, its color changed from red to a light pink that may symbolically represent a stage of increasing purity “from the blood and sins of this generation,” as Isaiah describes it (Is. 1:16; compare D&C 88:75). Next, Ezekiel stands in a white robe with his right arm raised, as a heavenly host comes down to touch the heads of the deceased (fig. 13). According to the description of Goodenough, in this scene “the three assembled corpses again lie one above another, and





FIG. 13. *Resurrection in the Valley of Life*, the left half of the second panel in the Ezekiel mural. Image from Kraeling, *The Synagogue*, plate 70.

the Greek figure of Psyche with butterfly wings stands at their heads, her hands out as though just about to grasp the head of the corpse at the top. Three other Psyche figures fly down from above. Scholars generally agree in identifying these figures with the four winds, which in the story breathe upon the corpses and give them the breath of life, so that they live.”<sup>95</sup>

Continuing with his interpretation, Goodenough described the fifth figure of Ezekiel as “supervising this miracle . . . , his right hand pointing with two fingers extended toward the descending Psyches. . . . That the prophet has taken on a new status at this stage seems obvious from his change of robes. Just as important is the peculiar two-finger gesture, which appears only here in the Dura paintings.”<sup>96</sup> We know, wrote Goodenough, “that it was not only used for the hand of the god, but was probably a cultic gesture in his mysteries. . . . The gesture would seem to indicate that Ezekiel is working a comparable miracle by bringing life to the corpses.”<sup>97</sup> One may compare the gesture of Ezekiel in his fifth appearance (in figs. 13 and 15) with a Byzantine ivory plaque in the British Museum that shows Christ raising the dead using a nearly identical gesture (fig. 14).<sup>98</sup>

*Worship of the heavenly assembly.* Between the fifth and sixth figures of Ezekiel “stand ten much smaller figures, all in the same [Romanized] Greek dress, who presumably represent the bones now fully restored to life.





FIG. 14. *Christ Awakens the Bones through the Prophets*. Image from Goodenough, *Jewish Symbols*, vol. 11, fig. 305.

They raise their hands, palms forward at shoulder height” (fig. 15).<sup>99</sup> Some interpreters have advanced the idea that the ten individuals represent the ten tribes of the northern kingdom of Israel.<sup>100</sup> However, as Goodenough pointed out, “it is hard to think that Judah and Benjamin should still be the unassembled ‘bones’ beside them.”<sup>101</sup> Instead—relating the ten columns of the heavenly temple to the symbolism of ancient prayer circles, angelic liturgy in the heavenly ascent (*hekhalot*) literature, and the Jewish prayer quorum (*minyan*)—Kurt Schubert reminds us that ten, a symbol of perfection,<sup>102</sup> was the “full number for a liturgical congregation.”<sup>103</sup> Schubert explained the nearby body parts that have not been rejoined as symbolizing “those groups of sinners, which according to Rabbinic understanding, have



FIG. 15. *The Exaltation of Resurrected Israel in the Valley of Life*, the right half of the second panel in the Ezekiel mural. Image from Kraeling, *The Synagogue*, plate 71.

no part in the resurrection.”<sup>104</sup> On the other hand, wrote Goodenough, the “ten who come into glory are the true Israel, . . . the mystic Jews. . . . The point of the ‘true Israel’ is that it consists of people who ‘see God.’ They are ones who have become ‘unwritten laws.’”<sup>105</sup>

Goodenough noted the special markings of “clavi” and “gams”<sup>106</sup> on the “Greek robe of *chiton* [belted tunic] and *himation* [cloak]” worn by the ten (see also the gammadia on the garment of Moses in figure 2). From his observations, Goodenough concluded, “Only those who appeared to be heavenly beings or the greatest saints of Judaism, mystic saviors, wear this clothing.”<sup>107</sup>

*The reunited mountain and tree of life.* Goodenough continued: “At the right of this [sixth] figure of Ezekiel . . . towers another mountain with a tree on it; this time the mountain stands intact, not riven like the first one. The contrast will seem possibly to have meaning.”<sup>108</sup> On the face of it, the idea expressed in the Ezekiel mural seems to be that the mountain is first split to release the dead (fig. 12), and then it is brought back together again and made whole (fig. 15). The image of the primordial mound being split in two to allow men “to spring forth like vegetation” is found in Near Eastern art and temple architecture.<sup>109</sup> All this imagery seems quite compatible with Jewish conceptions of resurrection as rebirth, “the earth being as a womb which shall give birth to them that are in their graves.”<sup>110</sup> Goldstein



concludes that the “unriven mountain is a restored mountain in the [future] Age of Restoration.”<sup>111</sup>

Additionally, one might argue that this panel represents the idea that the two trees on the split mountain, one or perhaps both of them olive trees,<sup>112</sup> have been brought back together into one. The resulting single tree seems to be vigorously sprouting new branches or fruit. In the *Zohar*, the foundation text for later Jewish *kabbalah* mysticism, the originally unified tree of life and tree of knowledge is split by the transgression of Adam and Eve, though a promise is given that these trees would one day be made one again.<sup>113</sup> Alternatively, in the context of Ezekiel 37, one might be tempted to regard these two trees as an allusion to the two “sticks” or trees of Ezekiel 37:15–20 being reunited in token of the restoration of the House of Israel.<sup>114</sup> Note that the Hebrew word for “stick,” *etz*, is the same word for “tree.” This interpretation is consistent with the overall theme of the final design of the Dura tree of life mural (fig. 8), with the separate blessings of the two divisions of Israel at the bottom of the tree and their joint exaltation around the throne at the top.

*On pain of death.* The final panel of the Ezekiel mural (fig. 16) presents a problem because it was painted twice, but, as Goodenough observed, “much of the original has come through the second coat of paint, so that



FIG. 16. *The Death of Ezekiel*, the third panel in the Ezekiel mural. Image from Kraeling, *The Synagogue*, plate 72.

we have a very good idea of what both looked like.”<sup>115</sup> In both renditions, two figures representing Ezekiel are shown—the seventh and eighth depictions of the prophet in the mural—but only the final Ezekiel figure was repainted. The seventh Ezekiel figure “kneels and clings to the side of a large yellow altar. . . . An armed soldier wearing a helmet grasps [him] from behind.” The eighth Ezekiel figure is then shown bending over, “his scabbard hanging down between his legs, while a standing figure in the same costume grasps his hair with the left hand and raises a sword, obviously in the act of beheading him.”<sup>116</sup> The tradition that Ezekiel was beheaded “does not appear in either the Old Testament or the rabbinical writings, but does in Christian documents,”<sup>117</sup> including Hebrews 11:37, which speaks of prophets who were “stoned,” “sawn asunder,” and “slain with the sword.” This verse may “summarize a current Jewish tradition of the deaths of the three major prophets, Jeremiah, Isaiah, and Ezekiel,”<sup>118</sup> as depicted in the Roda Bible, with Jeremiah being stoned, Isaiah being sawn asunder, and Ezekiel being slain with a sword (figs. 17–19). This final story scene seems to illustrate the requirement that those who would attain the glory of the way of life must prove their faithfulness “at all hazards,”<sup>119</sup> including, if required, the sacrifice of their own lives.



FIG. 17. *Jeremiah's Career, Stoned at the End* (Roda Bible). Image from Good-enough, *Jewish Symbols*, vol. 11, detail from fig. 308.





FIG. 18. *Isaiah's Career, Sawed in Two at the End* (Roda Bible). Image from Good-enough, *Jewish Symbols*, vol. 11, detail from fig. 307.



FIG. 19. *Ezekiel's Career, Beheaded at the End* (Roda Bible). Image from Good-enough, *Jewish Symbols*, vol. 11, detail from fig. 309.

Summing up the content of the Ezekiel mural and its relationship to the mystic's goal of ascent to the *merkavah*, or heavenly chariot-throne, Goodenough wrote:

Merkabah mysticism . . . primarily centers in an ascent into a heavenly region, and then a descent or return to the sorry world of earthly reality, and when we have this conception in mind we see that here is what the painting really has told us. The heavenly hand comes upon the prophet to take him into the world of death and desolation. Here he preaches until the bones of human decay come together and pass through a great barrier to another realm—the realm where Psyches give men a new life, and where their new life means that they, like the now triumphant prophet, wear the great robe of sanctity. Ezekiel cannot stay there, however, but must go back to the other side of the mountain again, there in his earthly garb to meet his earthly and mortal fate, meet it from the very Jewish leaders whose apostasy he had bitterly upbraided.<sup>120</sup>

## Scholarly Assessment of Goodenough's Studies

Goodenough's studies of Philo and of Jewish mysticism, undertaken over a period of thirty years, were controversial when they were published and have been largely neglected in the years since his passing in 1965. Yet more than two decades after his death, in reviewing the arguments of Goodenough's critics, Jacob Neusner could still speak of him as the "greatest historian of religion America has ever produced" and the "one towering figure" in the study of Judaism through art.<sup>121</sup>

If not concurring with Goodenough's specific conclusions about the beliefs and practices of the Jewish group who built the synagogue, a majority of scholars at least agree on the more general idea that "most of the scenes at Dura have some connection to messianic redemption and resurrection."<sup>122</sup> However, apart from disagreements on specific details of interpretation,<sup>123</sup> scholars have debated issues such as the following regarding Goodenough's overarching perspective:

- *Was "mystical Judaism" a distinct departure from rabbinic tradition?* Some scholars have argued that the differences between these groups should have been represented by Goodenough more as a "confused gradation" than as a dichotomy.<sup>124</sup> Ithamar Gruenwald also observed that Jewish mystical literature is associated "with the 'heart of Judaism' of the period and not with marginal, heterodox groups."<sup>125</sup> Though such opinions, if sustained, might weaken Goodenough's arguments for a polarization between the beliefs and practices

of rabbinic and mystical Judaism, they also would provide evidence, as do studies of synagogue art throughout the region,<sup>126</sup> that mysticism was more pervasive than once had been thought, thus strengthening the plausibility of Goodenough's interpretations for the Dura murals.

- *How valid were Goodenough's comparisons of the synagogue paintings to pagan art?* Writing soon after Goodenough published his studies, Elias Bickerman criticized his comparisons of the synagogue's images to Dionysiac imagery in pagan art.<sup>127</sup> Although agreeing with Bickerman that such comparisons are generally "inappropriate," Jodi Magness has more recently made the important point that a "mystical interpretation of another sort is supported by the Qumran literature and by *hekhalot* (heavenly ascent) literature, much of which was unavailable at the time Goodenough wrote. In fact, this is the type of Jewish literature that Goodenough supposed must have existed but was not preserved."<sup>128</sup> As argued above, the theme of heavenly ascent is central to Goodenough's interpretation of the Ezekiel mural.
- *How widespread was the influence of ideas resembling those of Philo?* Lee Levine has discounted Goodenough's reliance on Philo, seeing the interpretations of the latter as "sui generis and not reflective of what was going on in most Jewish circles of antiquity."<sup>129</sup> However, according to Luke Johnson, what neither supporters nor opponents of Goodenough can now deny is the "pervasive use by Philo of language that takes its origin in the mysteries yet is employed with direct reference to the practice and self-understanding of Judaism," in essence, "a conceptualization of Judaism as Mystery."<sup>130</sup> Countering Levine's claim that Philo was *sui generis*, an increasing body of evidence reveals important affinities between Philo's writings and pseudepigraphic writings of the same period,<sup>131</sup> supporting Goodenough's accounting for similarities to Philo in terms of analogous independent developments.<sup>132</sup>
- *Were specific ritual practices associated with mystic Judaism?* John Collins failed to see sufficient evidence for distinctive Jewish mystic *ritual*, but his extensive review of mystic Judaism and its literature largely substantiates and expands upon Goodenough's arguments regarding Jewish mystic *philosophy*.<sup>133</sup> More recent studies do, however, provide evidence that

Jewish mystic philosophy was sometimes incorporated in ritual practices. For example, based on their analysis of Qumran and other groups, Fletcher-Louis<sup>134</sup> and Morray-Jones<sup>135</sup> argue for cultic practices resembling in important respects those posited by Goodenough for Dura.

- *Was the congregation at Dura capable of conceiving a program of decoration reflecting the philosophy of mystic Judaism?* Joseph Gutmann is “fairly certain” that such a program “would have been totally incomprehensible to the small congregation of probably unsophisticated and unintellectual Jewish merchants and the other Jewish inhabitants residing at Dura.”<sup>136</sup> Anticipating such arguments, Goodenough posited the existence of an elite subset of the synagogue’s membership<sup>137</sup> who would have initiated the program for the synagogue’s decoration. From her studies of art in this and other Palestinian synagogues, Magness argues for the perpetuation of such an elite in the line of the Zadokite priests, “whose literature had virtually disappeared from Jewish tradition until the discovery of the Dead Sea Scrolls.”<sup>138</sup> Note that ceiling tiles from the Dura synagogue indicate that a priest named Samuel was its builder,<sup>139</sup> and one of the Moses figures surrounding the reredos has an inscription that labels the prophet as “son of Levi,”<sup>140</sup> emphasizing his priestly lineage rather than his father’s name. All this, not to mention the fact that Philo himself is generally assumed to have been a priest, suggests that “Dura reflects a trajectory of priestly tradition.”<sup>141</sup>

Despite the history of controversy, as recently as 2007, Robert Goldenberg noted the continued importance of Goodenough’s views on Dura, observing that “other leaders in the field have roundly disputed his proposals, but Goodenough’s arguments were weighty and his evidence was impressive. The matter remains unresolved.”<sup>142</sup> Goodenough’s assessment of his own work still remains largely true today: “Alternative interpretations have been suggested for details, but none attempted for the evidence as a whole.”<sup>143</sup>

## Summary and Conclusions

While not without their faults or their critics, Goodenough’s classic studies of Jewish symbolism in the Dura Europos synagogue and of possible ritual elements in Philo’s thought provide valuable perspectives not found anywhere else in such detail. His studies, containing some important ideas



that are being confirmed by new research, bring to light the importance of temple themes in some strains of Judaism that were contemporary with Jesus Christ and early Christianity. While further work is called for in this regard, it may be suggested that such presentations of these ancient themes in these artistic and philosophical forms may have made it very natural for some Jews to accept Christianity when it became known to them.<sup>144</sup> In fact, Goodenough went so far as to argue that “Christianity cannot be explained apart from the preparation within the form of Judaism that Philo reveals.”<sup>145</sup>

Goodenough’s comprehensive studies of the symbolism of the Dura Europos synagogue reveal striking echoes with the ideas of Philo, giving visual evidence of the possibility that similar concepts from others influenced by the same religious currents may have manifested themselves in the actual ritual practice of some Jews of the Diaspora. Barker<sup>146</sup> and others<sup>147</sup> have since expanded Goodenough’s conclusions to show that Philo’s “essentially Jewish”<sup>148</sup> descriptions may even reflect knowledge drawn from First Temple Judaism. It is hoped that these materials, which cry out for further attention from scholars of Judaism and early Christianity, will themselves, like Ezekiel’s bones, be reassembled from the four corners of the world and “resurrected” for further study and discussion.

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1. “The local name of the town was ‘Dura’ [literally ‘fort’]; when Alexander the Great conquered the area, the town received the Graeco-Macedonian name ‘Europos.’” Jonathan A. Goldstein, “The Judaism of the Synagogues (Focusing on the Synagogue of Dura-Europos),” in *Judaism in Late Antiquity, Part 2, Historical Syntheses*, ed. Jacob Neusner (New York: Brill, 1995), 110. The frequently used hyphenated form “Dura-Europos” is a modern invention.

2. Erwin R. Goodenough, *Jewish Symbols in the Greco-Roman Period*, 13 vols., Bollingen Series 37 (New York: Pantheon Books, 1953–1968), 10:197. (Two editions of this work exist: the complete edition cited here and an abbreviated edition cited in note 11. Unless otherwise specified, future references will cite the complete edition published by Pantheon.)

3. Rachel Hachlili, *Ancient Jewish Art and Archaeology in the Diaspora* (Leiden: Brill, 1998), 103, accessed at <http://books.google.com/books?id=cKGpa-FJ3XsC>.

4. Clark Hopkins, *The Discovery of Dura-Europos*, ed. Bernard Goldman (New Haven, Conn.: Yale University Press, 1979), 130–31. The significance of the “visual midrash” of the Dura synagogue in light of Jewish views of art is discussed in Jo Milgrom, “The Dura Synagogue and Visual Midrash,” in *Scriptures for the Modern World*, ed. Paul R. Cheesman and C. Wilfred Griggs, Religious Studies Monograph Series, vol. 11 (Provo, Utah: Religious Studies Center, Brigham Young University, 1984), 29–59.

5. See Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, 2d ed. (New Haven, Conn.: Yale University Press, 2005), 176–77, for a summary of some of the various opinions on this question. See also Joseph Gutmann, “Programmatic Painting in the Dura Synagogue,” in *The Dura-Europos Synagogue: A Re-evaluation (1932–1992)*, ed. Joseph Gutmann (Atlanta: Scholars Press, 1992), 137–40.

6. Milgrom, “Visual Midrash,” 31.

7. Cited in Milgrom, “Visual Midrash,” 31.

8. Goodenough, *Symbols*, 10:197.

9. For good summaries of recent finds, see, for example, Levine, *Ancient Synagogue*; Steven Fine, *Art and Judaism in the Greco-Roman World: Toward a New Jewish Archaeology* (New York: Cambridge University Press, 2005).

10. For discussions of issues relating to the definition of Jewish and early Christian mysticism, see Elliot R. Wolfson, “Mysticism and the Poetic-Liturgical Compositions from Qumran: A Response to Bilhah Nitzan,” *The Jewish Quarterly Review* 85, no. 1–2 (July–October 1994): 185–202, <http://www.jstor.org/stable/1454961>; April D. DeConick, “What Is Early Jewish and Christian Mysticism?” in *Paradise Now: Essays on Early Jewish and Christian Mysticism*, ed. April D. DeConick (Atlanta: Society of Biblical Literature, 2006), 1–24.

11. For example, Babylonian Manichaeism, Mithraism, and the Sassanid renovation of Zoroastrianism. See Jacob Neusner, editor’s foreword, in Erwin R. Goodenough, *Jewish Symbols in the Greco-Roman Period*, ed. Jacob Neusner, abr. ed., Bollingen Series (Princeton: Princeton University Press, 1988), xxix. For a view of religious interaction at Dura Europos, see Lucinda Dirven, *The Palmyrenes of Dura-Europos: A Study of Religious Interaction in Roman Syria*, ed. R. Van Den Broek, H. J. W. Drijvers, and H. S. Versnel, Religions in the Graeco-Roman World, Volume 138 (Leiden: Brill, 1999).

12. Margaret Barker, *The Great Angel: A Study of Israel’s Second God* (Louisville, Ky.: Westminster/John Knox, 1992), 114–33; see also John Eugene Seaich, *Ancient Texts and Mormonism*, 1st ed. (Murray, Utah: Sounds of Zion, 1983), 56–68.

13. Hugh W. Nibley, *Since Cumorah*, ed. John W. Welch, 2d ed. (Salt Lake City: Deseret Book and Foundation for Ancient Research and Mormon Studies [FARMS], 1988), 189. Compare Goodenough, *Symbols*, 10:33.

14. See Goodenough, *Symbols*, 12:171. Note that the King James translators rendered Exodus 28:39 inaccurately. Consistent with most modern Bible translations, Goodenough describes Aaron’s robe as being “checked.” Also of significance, as Nibley pointed out, is the symbolism of the square on the left shoulder

of this vestment. Hugh W. Nibley, "Sacred Vestments," in *Temple and Cosmos: Beyond This Ignorant Present*, ed. Don E. Norton (Salt Lake City: Deseret Book and FARMS, 1992), 110, caption to figure 26. Goodenough makes his note about Moses exceptionally "functioning on the Aaronic level" because more typically in Philo, and arguably in other murals at Dura, Moses is used as a type of participation in the "Greater" mystery in contrast to Aaron's "Lesser" or "Lower" mystery. This contrast is represented in the difference in the priestly robes worn. From the dress of Moses in this mural and other evidence, Goodenough concluded that here "the tribes were taken into the Lower Mystery." Erwin R. Goodenough, *By Light, Light: The Mystic Gospel of Hellenistic Judaism* (New Haven, Conn: Yale University Press, 1935), 210; see also 99–100, 209.

15. John M. Lundquist, "What Is a Temple? A Preliminary Typology," in *Temples of the Ancient World*, ed. Donald W. Parry (Salt Lake City: Deseret Book, 1994), 83–117, see especially 88, fig. 7. Jonathan A. Goldstein uses Numbers 11:11–29 to explain why illumination flows only to the tents of two of the Israelites. Goldstein, "Judaism of the Synagogues," 129–30.

16. Hugh W. Nibley, "Tenting, Toll, and Taxing," in *The Ancient State: The Rulers and the Ruled*, ed. Donald W. Parry and Stephen D. Ricks (Salt Lake City: Deseret Book and FARMS, 1991), 74 n. 15.

17. Hugh W. Nibley, "Rediscovery of the Apocrypha and the Book of Mormon," in Nibley, *Temple and Cosmos*, 239, caption to figure 47; compare Hugh W. Nibley, *Teachings of the Book of Mormon*, 4 vols. (Provo, Utah: FARMS, 2004), 1:152, drawing on Goodenough, *Symbols*, 10:91–96. The symbol of the square again appears on the robe of the leftmost of the three angelic figures.

18. Goldstein, "Judaism of the Synagogues," 118.

19. See Goodenough, *Symbols*, 9:66. Used as a symbol of the resurrection since Greco-Roman times, a sculpture of a scallop shell also appears in the celestial room of the Salt Lake Temple immediately above the veil. James E. Talmage, *The House of the Lord: A Study of Holy Sanctuaries Ancient and Modern* (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 1912; reprint Salt Lake City: Signature Books, 1998), 132, plate 22. In other ancient contexts, it was also used to represent fertility. Compare this with the scallop shell shown over the veil in a depiction of the Jerusalem Temple in Khirbet Samara, an ancient Samaritan synagogue. William J. Hamblin, "Temple Mosaic from Khirbet Samara," in Hamblin of Jerusalem, <http://hamblinofjerusalem.blogspot.com/2010/01/temple-mosaic-from-khirbet-samara.html>.

20. See, for example, Goodenough, *Symbols*, 9:67–77.

21. Moon observes that Jewish women "depicted in the synagogue frescoes wear pink, brown, beige, and beige-yellow—not white, forbidden by the Mishnah. White, we should explain, was exclusive to men, especially to those of status, as the figures of Moses and others in the frescoes attest. . . . [In addition,] Jewish women were required to cover their head." Warren G. Moon, "Nudity and Narrative: Observations on the Frescoes from the Dura Synagogue," *Journal of the American Academy of Religion* 60, no. 4 (Winter 1992): 596–97.

22. Margaret Barker, *Temple Themes in Christian Worship* (London: T&T Clark, 2008), 28.

23. Goldstein, "Judaism of the Synagogues," 118.

24. Nibley, *Since Cumorah*, 189.



25. Goodenough, *Symbols*, 12:160.

26. Goodenough, *Symbols*, 9:78–79.

27. Nibley incorrectly has the name “Joseph” here, though Goodenough, consistent with scripture, has Jacob giving the blessing.

28. Nibley, *Since Cumorah*, 189; see also Nibley, *Teachings of the Book of Mormon*, 1:135, 137. Nibley is quoting Goodenough, *Symbols*, 10:200. For LDS perspectives on this topic, see Jeffrey M. Bradshaw and Ronan J. Head, “Mormonism’s Satan and the Tree of Life,” *Element: The Journal of the Society for Mormon Philosophy and Theology* 4, no. 2, forthcoming; Jeffrey M. Bradshaw, *In God’s Image and Likeness* (Salt Lake City: Eborn Books, 2010), 163–68, 188–89, 228, 295–96, 462, 591–95, 748–49.

29. See John A. Tvedtnes, “Vineyard or Olive Orchard,” in *The Allegory of the Olive Tree: The Olive, the Bible, and Jacob* 5, ed. Stephen D. Ricks and John W. Welch (Salt Lake City: Deseret Book and FARMS, 1994), 477–83.

30. Nibley, *Since Cumorah*, 189, 191. See, for example, Jacob 5:8.

31. Nibley, *Since Cumorah*, 191.

32. Goodenough, *Symbols*, 10:201.

33. Goodenough, *Symbols*, 10:201 (emphasis added). See parallels in Philo’s description of Moses’s cosmic hymn, discussed below.

34. Nibley connected the Orpheus theme to the ancient annual celebration of the new year, the *hilaria*, which “was the occasion on which all the world joined in the great creation hymn, as they burst into a spontaneous song of praise recalling the first creation.” Further associating this event with the Day of Atonement reiterated in the image of the sacrifice of Isaac shown in figure 5, he notes that the Greek term for “mercy seat” is *hilasterion*—the place of the *hilaria*. Hugh W. Nibley, “The Meaning of the Atonement,” in *Approaching Zion*, ed. Don E. Norton (Salt Lake City: Deseret Book and FARMS, 1989), 563–66, drawing on Goodenough, *Symbols*, 9:89–104. See also Nibley, *Teachings of the Book of Mormon*, 2:228–30.

35. Goodenough, *Symbols*, 9:78.

36. Goodenough, *Symbols*, 9:78–79.

37. Among literary sources cited by Goodenough to associate David with this unidentified figure is a Coptic Christian text where David “lies upon the bed of the tree of life and holds in his right hand the golden plectrum, in his left the *pneuma*-lyre as he assembles all the angels to hail the Father.” Goodenough, *Symbols*, 9:102. Michael Avi-Yonah writes that Goodenough’s once-controversial identification of Orpheus with David “has been brilliantly vindicated by the discovery of the Gaza synagogue mosaic pavement (dated 509) in which a royal figure is shown surrounded by animals, while playing the lyre, and is described expressly as ‘David.’” Michael Avi-Yonah, “Goodenough’s Evaluation of the Dura Paintings: A Critique,” in Gutmann, *Dura-Europos Synagogue*, 119. For a summary of scholarly views on the identification of David with Orpheus, see Jas’ Elsner, “Double Identity: Orpheus as David. Orpheus as Christ?” *Biblical Archaeology Review* 35 (March/April 2009), available online at <http://members.bib-arch.org/publication.asp?PubID=BSBA&Volume=35&Issue=2&ArticleID=8>.

38. Goodenough, *Symbols*, 9:105. “The reredos finally represented the foundation of Israel as a people, and their ultimate glorification through the tree-vine and Orpheus. The symbol of bread and wine could be assumed: it was now the hope and ascent of Israel which the congregation looked at as they worshiped.”

Goodenough, *Symbols*, 12:162. “If for both Christians and pagans the vine referred to the divine power made available to take one to heaven, . . . the chances are overwhelming that the vine meant here not Israel itself but the hope of Israel, the hope that Jews would come to salvation through the Jewish God who was to his people what the vine represented to others. ‘I am the Vine, ye are the branches’ (John 15:5) may originally have been a mystic description of the relation between God and Israel.” Goodenough, *Symbols*, 9:80–81.

39. Kurt Schubert, “Jewish Pictorial Traditions in Early Christian Art,” in *Jewish Historiography and Iconography in Early and Medieval Christianity*, ed. Heinz Schreckenberg and Kurt Schubert (Minneapolis: Fortress, 1992), 173. For more on Messiah ben Joseph, see Raphael Patai, *The Messiah Texts: Jewish Legends of Three Thousand Years* (Detroit: Wayne State University Press, 1979), 165–70; Trevan G. Hatch, “Messiah ben Joseph: Jewish Traditions and Legends of a Latter-day Restorer,” in *The 2007 Brigham Young University Religious Education Student Symposium* (Provo, Utah: Religious Studies Center, Brigham Young University, 2007), 37–56; John A. Tvedtnes, “Joseph Smith: The Lord’s Anointed,” *Meridian Magazine*, <http://www.meridianmagazine.com/jsbicentennial/051223js.html>.

40. Nibley, *Since Cumorah*, 192, quoting Goodenough, *Symbols*, 10:200, 201.

41. Goodenough elaborates: “The difference between Jewish mysticism and Jewish messianic eschatology is essentially that in eschatology the cosmic as well as the personal transition is stressed, the destruction of the bad in all men along with the universal achievement of the good. [The tree of life panel], with its sacraments at its base, its great tree-ladder, the saving means of divine music and harmony—all leading to the Three at the top—present a scheme of salvation that need not await any ‘far off, divine event.’ It was to be consummated for everyone in the heavenly future, to be sure, but the design represented what those who painted it thought Judaism offered both here and hereafter to the faithful.” Goodenough, *Symbols*, 9:104. In this interpretation, Goodenough’s studies anticipated what Fletcher-Louis calls the “third phase” of apocalyptic scholarship, where stories of heavenly ascent are seen as attesting “the kind of revelatory encounter with the heavenly mysteries for which any Jew, Jewess, or proselyte might hope.” Crispin Fletcher-Louis, “Religious Experience and the Apocalypses,” in Frances Flannery, Colleen Shantz, and Rodney A. Werline, eds., *Inquiry into Religious Experience in Early Judaism and Early Christianity*, *Experientia*, Volume 1 (Atlanta: Society of Biblical Literature, 2008), 126, 144.

42. Virtually all scholars accept the first two portraits as being of Moses. Weitzmann and Kessler argue that the third figure is Jeremiah, standing beside the covered ark and displaying the scroll of the new covenant, and that the fourth portrait is Isaiah (Isaiah 60:19–21). Kurt Weitzmann and Herbert Kessler, *The Frescoes of the Dura Synagogue and Christian Art*, *Dumbarton Oaks Research Library and Collection* 28 (Washington, D.C.: Dumbarton Oaks Research Library and Collection, 1990), 170–73. However, Fine, who parts with Goodenough’s interpretations in most other respects, agrees that the third portrait is also Moses. Fine, *Art and Judaism in the Greco-Roman World*, 178–79. Kraeling, however, identified wing panel 3 as Ezra reading the law and wing panel 4 as Abraham receiving the promise. Carl H. Kraeling, *The Synagogue*, *The Excavations at Dura-Europos, Final Report 8, Part 1*, ed. A. R. Bellinger, F. E. Brown, A. Perkins, and C. B. Welles (New Haven, Conn.: Yale University Press, 1956), plates 77 and 78. Goodenough

gives several reasons to conclude that the fourth figure would represent the same character as the first three. Goodenough, *Symbols*, 9:115. Goldstein also supports Goodenough's identifications; "Judaism of the Synagogues," 122.

43. The third portrait shows a typical scene of Moses reading the Law, "except that at Dura, Moses' audience is omitted, and Moses stands alone, so that he reads the Law to the living audience in the synagogue before him. . . . Moses [is] presented as the mystic hierophant reading the *hieros logos* he graciously brought to Jews. That Moses reads the mystic text as a mystagogue means not that the Scriptures were literally kept secret, but that to these Jews in Dura, as to Philo, the true meaning of Scripture, the allegorical, was to be presented fully only to those 'initiated.'" Goodenough, *Symbols*, 9:113-14.

44. Goodenough, *Symbols*, 9:118.

45. Goodenough, *Symbols*, 9:115.

46. Goodenough, *Symbols*, 9:116.

47. Goodenough, *Symbols*, 9:101, 116-18.

48. Philo, "On the Virtues (*De Virtutibus*)," in Philo, ed. and trans. F. H. Colson. 10 vols. and 2 supplements, *Loeb Classical Library* (Cambridge, Mass.: Harvard University Press, 1929-53), 8:207.

49. Goodenough, *By Light, Light*, 95, 96. See Philo, "On the Giants (*De Gigantibus*)," in Philo, 2:473. See C. T. R. Hayward, *Interpretations of the Name Israel in Ancient Judaism and Some Early Christian Writings: From Victorious Athlete to Heavenly Champion* (Oxford: Oxford University Press, 2005), 156-219, regarding Philo's explanation of the name Israel as meaning "the one who sees God."

50. Margaret Barker, *The Hidden Tradition of the Kingdom of God* (London: Society for Promoting Christian Knowledge, 2007), 7, 38-47.

51. Philo, "On the Giants," in Philo, 2:473. See Erwin R. Goodenough, *An Introduction to Philo Judaeus*, 2d ed., rev. (Oxford: Basil Blackwell, 1962), 147-48.

52. Goodenough, *By Light, Light*, 214 n. 105. See John W. Welch, *The Sermon at the Temple and the Sermon on the Mount: A Latter-day Saint Approach* (Salt Lake City and Provo: Deseret Book and FARMS, 1990), 57-62, and John W. Welch, *The Sermon on the Mount in the Light of the Temple* (Farnham, U.K.: Ashgate, 2009), 116-20, for discussions of the ritual significance of the concept of "perfection."

53. Goodenough was always careful not to strictly equate Philonic Judaism with the mystical Judaism he supposes to have found in the synagogue. Though the "probable conclusion is that the Jews (not, I believe, the whole congregation) who decorated the synagogue had accepted the symbols because they had come to interpret Judaism much as Philo had done," an examination of the paintings makes clear that they "had read much apocalyptic literature Philo had not read, and had accepted many haggadic legends Philo probably never heard of." Goodenough, *Symbols*, 9:122.

54. Goodenough, *Symbols*, 9:118, 121, 122. Observes Hayward, "Philo saw nothing improper . . . in describing Moses as a hierophant: like the holder of that office in the mystery cults of Philo's day, Moses was responsible for inducting initiates into the mysteries, leading them from darkness to light, to a point where they are enabled to see [God]." Hayward, *Interpretations of the Name Israel*, 192, emphasis in original.

Philo said the following about his initiation: "I myself was initiated [*muētheis*] under Moses the God-beloved into his greater mysteries [*ta megala mysteria*],"



and readily became a disciple of Jeremiah, “a worthy minister [*hierophantēs*] of the holy secrets.” Philo, “On the Cherubim (*De Cherubim*),” in *Philo*, 2:37.

55. Goodenough, *Symbols*, 10:198; see also 12:190–97. Often criticized for his interpretations, Goodenough showed ambivalence in his writings about the terms “initiation” and “mystery,” speaking in his early writings in ways that at least sometimes seemed to imply a literal ritual, while in his last writings leaning toward a figurative sense of the word. Robert S. Eccles, *Erwin Ramsdell Goodenough: A Personal Pilgrimage*, Society of Biblical Literature, Biblical Scholarship in North America, ed. Kent Harold Richards (Chico, Calif.: Scholars Press, 1985), 64–65.

56. Crispin H. T. Fletcher-Louis, *All the Glory of Adam: Liturgical Anthropology in the Dead Sea Scrolls* (Leiden: Brill, 2002), 56, 212–13, 476, emphasis in original.

57. Fletcher-Louis, “Religious Experience,” 132, 133, emphasis in original. On the rise of temple terminology and forms in the synagogues and the expanded centrality of prayer during the Amoraic period, see Jodi Magness, “Heaven on Earth: Helios and the Zodiac Cycle in Ancient Palestinian Synagogues,” *Dumbarton Oaks Papers* 59 (2005): 23.

58. Wolfson, “Mysticism,” 202.

59. Magness, “Heaven,” 41.

60. See discussion in Bradshaw, *Image and Likeness*, 663–93, 756–81. See also Brent J. Schmidt, “Utopia and Community in the Ancient World” (PhD diss., University of Colorado at Boulder, 2008).

61. Goodenough, *Symbols*, 10:179.

62. Carl H. Kraeling, *The Synagogue* (New Haven, Conn.: Yale University Press, 1956), 202.

63. Goodenough, *Symbols*, 10:195–96.

64. Goodenough, *By Light, Light*, 96. Seach sees similarities to the gathering of Israel at Sinai in three groups: “the masses at the foot of the mountain, where they viewed God’s ‘Presence’ from afar; the Seventy part way up; and Moses at the very top, where he entered directly into God’s presence.” Seach, *Ancient Texts and Mormonism*, 2d rev. ed. (n.p., 1995), 660; see also 568–77, 661, 807–9. For a summary of parallels in the imagery of merkavah mysticism and the experience of Israel at Sinai, see Magness, “Heaven,” 35 n. 238. Ephrem the Syrian, an early Christian scholar, saw the imagery of clothing in the story of Adam and Eve and the symbolism of the Jerusalem Temple as “a means of linking together in a dynamic fashion the whole of salvation history; it is a means of indicating the interrelatedness between every stage in this continuing working out of divine Providence,” including “the place of each individual Christian’s baptism [and other ordinances] within the divine economy as a whole.” Sebastian Brock, in Ephrem the Syrian (ca. 350–63), *Hymns on Paradise*, trans. Sebastian Brock (Crestwood, New York: St. Vladimir’s Seminary Press, 1990), 66–67.

65. Gary A. Anderson, *The Genesis of Perfection: Adam and Eve in Jewish and Christian Imagination* (Louisville, Ky.: Westminster John Knox Press, 2001), 123.

66. Goodenough, *By Light, Light*, 96.

67. Philo, “On the Giants,” in *Philo*, 2:473.

68. Philo, *Philo Supplement 2: Questions and Answers on Exodus*, 10 vols. and 2 supplements, ed. and trans. Ralph Marcus, Loeb Classical Library (Cam-

bridge, Mass.: Harvard University Press, 1953), supplement 2:70; see Eccles, *Erwin Ramsdell Goodenough*, 60–61; Goodenough, *Introduction to Philo*, 147–53. The extent to which Philo intended to imply a literal deification of Moses is a matter of scholarly debate. Russell provides a useful history and overview of Jewish and early Christian beliefs relating to deification. Norman Russell, *The Doctrine of Deification in the Greek Patristic Tradition*, Oxford Early Christian Studies, ed. Gillian Clark and Andrew Louth (Oxford: Oxford University Press, 2004). While both admitting many evidences suggesting that Philo's view of deification might be taken at face value and also recognizing the influence of Philo's teachings on later Christian teachings on the subject, he nevertheless agrees with the consensus of most modern scholars that "Philo is unwilling to say that Moses is a god except by title or analogy." Russell, *Doctrine of Deification*, 64. Russell, however, does see stronger ideas of deification analogous to early Christian views in some strands of Palestinian Judaism and later rabbinic mysticism. Russell, *Doctrine of Deification*, 65–76. For additional discussion of traditions of Moses's deification, see Wayne A. Meeks, "Moses as God and King," in *Religions in Antiquity: Essays in Memory of Erwin Ramsdell Goodenough*, ed. Jacob Neusner (Leiden: Brill, 1968), 354–71, and Welch, *The Sermon on the Mount*, 25–27.

69. Christopher R. A. Morray-Jones, "Divine Names, Celestial Sanctuaries, and Visionary Ascents: Approaching the New Testament from the Perspective of Merkava Traditions," in *The Mystery of God: Early Jewish Mysticism and the New Testament*, ed. Christopher Rowland and Christopher R. A. Morray-Jones (Leiden: Brill, 2009), 306–7.

70. Philo, *On the Special Laws Book 1 (De Specialibus Legibus)*, in *Philo*, 7:137.

71. George MacRae, "The Temple as a House of Revelation in the Nag Hammadi Texts," in *The Temple in Antiquity*, ed. Truman G. Madsen (Provo, Utah: Religious Studies Center, 1984), 184–85. For additional detail and an overview of research on the Valentinian sacraments, see Gaye Strathearn, "The Valentinian Bridal Chamber in the Gospel of Philip," *Studies in the Bible and Antiquity* 1 (2009): 83–103. Intriguingly, Darren Iammarino concludes that "the bridal chamber in the Valentinian community is actually the same type of ascent ritual that [is] encountered in the ritual of Sethian baptism," which he takes to be of Jewish, pre-Christian origin. He also compares the Sethian ritual to the Gnostic Christian initiation espoused by the community that produced the Gospel of Thomas and possibly related documents, and observes that "both seem to have a rite of ascent that led to a mystical vision and revelation." Darren Iammarino, "Similarities between Sethian Baptism and the Bridal Chamber of Thomas Gnosticism and Valentinianism," *Intermountain West Journal of Religious Studies* 1, no. 1 (2009): 36, 39.

72. Hans-Josef Klauck, *The Religious Context of Early Christianity: A Guide to Graeco-Roman Religions*, trans. Brian McNeil (Minneapolis: Fortress Press, 2003), 99; compare William J. Hamblin and David Rolph Seely, *Solomon's Temple: Myth and History* (London: Thames and Hudson, 2007), 119, 121. The idea of three degrees of initiation within primordial traditions from other cultures is also discussed in John M. Lundquist, "Fundamentals of Temple Ideology from Eastern Traditions," in *Revelation, Reason, and Faith: Essays in Honor of Truman G. Madsen*, ed. Donald W. Parry, Daniel C. Peterson, and Stephen D. Ricks (Provo, Utah: FARMS, 2002), 677–78, 680–81. From a ritual perspective, these three parts roughly correspond to van Gennep's classic stages of separation (*préliminaire*),

transition (*liminaire*), and reintegration (*postliminaire*). Arnold van Gennep, *The Rites of Passage*, trans. Monika B. Vizedom and Gabrielle L. Caffee (London: Routledge, 1960).

73. Goodenough, *Symbols*, 10:182 n. 85.

74. Recall, for example, the series of four *kusta* handclasps, corresponding to four rites leading to the presence of God, in Mandaean liturgy. See E. S. Drower, ed., *The Thousand and Twelve Questions (Alf Trisar Shuialia)* (Berlin: Akademie-Verlag, 1960), 255–56. Likewise, the series of “five signs and five mysteries” are expressed by the “right hand” and the “embrace” in Manichaean ritual. Iain Gardner, ed., *The Kephalaia of the Teacher: The Edited Coptic Manichaean Texts in Translation with Commentary*, Nag Hammadi and Manichaean Studies, vol. 37, ed. J. M. Robinson and H. J. Klimkeit (Leiden: Brill, 1995), 43–46. See also Iammarino, “Similarities,” 24–40.

75. David Larsen comments that temple imagery is especially noticeable in Psalm 63, including possible references to waters of life, seeing God in the temple, prayer with uplifted hands, a sacred meal, dream incubation, the wings of cherubim in the Holy of Holies, an ascent of the soul by aid of God’s right hand, and judgment. Although more research is needed, the depiction might be seen as a heavenly ascent or at least an experience comparable to Isaiah 6.

Also, although contained in very poetic and figurative imagery, Psalm 139 seems to allude to heavenly ascent or otherworld journeys led by God’s right hand. David J. Larsen, email to Jeffrey M. Bradshaw, January 2, 2010.

76. See discussions of this motif by David Rolph Seely in his “The Image of the Hand of God in the Exodus Traditions” (PhD diss., University of Michigan, 1990); “The Image of the Hand of God in the Book of Exodus,” in *God’s Word for Our World: Biblical Studies in Honor of Simon John De Vries*, ed. J. Harold Ellens and others (London: T & T Clark, 2004), 1:38–54; and “The Image of the Hand of God in the Book of Mormon and the Old Testament,” in *Rediscovering the Book of Mormon*, ed. John L. Sorenson and Melvin J. Thorne (Salt Lake City: Deseret Book, 1991), 140–50. In the Dura mural of the parting of the Red Sea, like in the mural of Ezekiel, both a right hand and a reversed right hand appear to be shown.

77. Nibley explains: “In a stock presentation found in early Jewish synagogues as well as on very early Christian murals, ‘the hand of God is represented, but could not be called that explicitly, and instead of the heavenly utterance the *bath kol* [echo, distant voice, whisper] is given.’ . . . In early Christian representations the hand of God reaching through the veil is grasped by the initiate or human spirit who is being caught up into the presence of the Lord.” Nibley, “Meaning of the Atonement,” 561–62.

78. Harald Riesenfeld, *The Resurrection in Ezekiel 37 and in the Dura-Europos Paintings*, Uppsala Universitets Arsskrift, vol. 11 (Uppsala, Sweden: Almqvist and Wiksells, 1948), 34.

79. David Larsen comments that this theme can be perceived in Psalm 18:3–16 (the king should be seen as dead, at least ritualistically); 108:6; compare 20:6; 60:5; 74:11; 138:7. David J. Larsen, email to Jeffrey M. Bradshaw, January 2, 2010.

80. Riesenfeld, *Resurrection in Ezekiel 37*, 12.

81. Riesenfeld, *Resurrection*, 33.

82. Goodenough, *Symbols*, 10:182–83 n. 85.



83. Hugh Nibley, *The Message of the Joseph Smith Papyri: An Egyptian Endowment*, 2d ed., The Collected Works of Hugh Nibley, 16, eds. John Gee and Michael D. Rhodes (Salt Lake City and Provo: Deseret Book and FARMS, 2005), 443.

84. Daniel Rona, *Israel Revealed: Discovering Mormon and Jewish Insights in the Holy Land* (Sandy, Utah: Ensign Foundation, 2001), 194. An excavation of a Christian burial site in Egypt has produced evidence that some burials included “plain linen garments, but the many strands of linen ribbon wrapped around the upper half of the body are gathered together into a complex knot.” The knot was found either on the left or, more commonly, on the right shoulder, indicating priestly authority. C. Wilfred Griggs and others, “Evidences of a Christian Population in the Egyptian Fayum and Genetic and Textile Studies of the Akhmim Noble Mummies,” *BYU Studies* 33, no. 2 (1993): 225–26.

85. Margaret Barker, email to Jeffrey M. Bradshaw, June 11, 2007.

86. Goodenough, *Symbols*, 12:188.

87. Goldstein, “Judaism of the Synagogues,” 146.

88. Goodenough, *Symbols*, 10:180. See Ezekiel 37:1; compare Ezekiel 8:2; 28:13–19. The scattered bones may suggest the Persian practice of exposing rather than burying the dead. Nicholas Thomas Wright, *The Resurrection of the Son of God* (Minneapolis: Fortress, 2003), 125 and 125 n. 169.

89. Daniel I. Block, *The Book of Ezekiel: Chapters 25–48*, in *The New International Commentary on the Old Testament*, ed. Robert L. Hubbard Jr. (Grand Rapids, Mich.: Eerdmans, 1998), 376.

90. Goodenough, *Symbols*, 10:181.

91. Goodenough, *Symbols*, 10:182; see Ezekiel 6:2–7; compare 36:1–7.

92. Goodenough, *Symbols*, 10:183. The mountain is surely meant to represent the Mount of Olives, which is destined to cleave in two at a crucial moment in the last days (Zech. 14:4; D&C 45:48, 133:20). The *Targum to the Song of Songs* 8:5 envisions the mountain as the site of the resurrection of all Israel: “When the dead rise, the Mount of Olives will open and all Israel’s dead will come up out of it, also the righteous who have died in captivity: they will come through a subterranean passage and come up from under the Mount of Olives.” Cited in Riesenfeld, *Resurrection*, 31; see also Howard Schwartz, *Tree of Souls: The Mythology of Judaism* (Oxford: Oxford University Press, 2004), 504–6; Robert P. Gordon, “The Targumists as Eschatologists,” in *Hebrew Bible and Ancient Versions: Selected Essays of Robert P. Gordon*, ed. Robert P. Gordon (Aldershot, England: Ashgate, 2006), 308.

93. Note that the tree in Revelation 22:2 “is rather ambiguously described in twofold aspect planted on either side of the river of the water of life.” Jennifer O’Reilly, “The Trees of Eden in Mediaeval Iconography,” in *A Walk in the Garden: Biblical, Iconographical and Literary Images of Eden*, ed. Paul Morris and Deborah Sawyer (Sheffield, U.K.: JSOT Press, 1992), 176. So, these two trees may depict two halves of the same tree, just as the mountain on which it stands has been split in two.

94. Goodenough, *Symbols*, 10:183. See Ezekiel 32:5; 35:1–8; 37:7; 38:20.

95. Goodenough, *Symbols*, 10:183. See Ezekiel 37:9–10. The allusion to the four winds in this passage requires additional explanation. Chester points out that *ruach* is used in verses 5–6, 9–10 with various meanings, including “breath, wind or spirit (and the deliberate further play on this in the climax of the section in v.

14, where *ruach* obviously must mean the [divine] Spirit)—can be understood as having deliberate echoes of the Genesis creation narratives [see Gen. 1:2; compare Moses 2:2, 3:7]. . . . [Moreover] the ‘four winds’ . . . denote the four corners of the earth, [which gives *ruach*] a specifically and deliberately cosmic scope. . . . Overall, then, the *ruach* of Ezekiel 37 contains at least hints of all these different—although overlapping—dimensions: the breath necessary for human life, the cosmic, creative divine Spirit, and the eschatological divine Spirit.” Andrew Chester, *Messiah and Exaltation: Jewish Messianic and Visionary Traditions and New Testament Christology* (Tübingen: Mohr Siebeck, 2007), 125–27; see also Schubert, “Jewish Pictorial Traditions,” 187–88. The implication, then, drawn by Chester from this and related texts is that “those who are delivered . . . , and not just a few individuals, will take on a transformed and heavenly angelic state, in the end time, at the point of decisive eschatological intervention.” Chester, *Messiah and Exaltation*, 144. For an example of a similar motif in Christian art, see the creation cupola in the basilica of San Marco, Venice, where a small winged figure is shown assisting God in animating the lifeless Adam, immediately following his creation. Penny Howell Jolly, *Made in God’s Image? Eve and Adam in the Genesis Mosaics at San Marco, Venice*, California Studies in the History of Art, Discovery Series 4, ed. Walter Horn and James Marrow (Berkeley: University of California Press, 1997), plate 6.

96. Goodenough, *Symbols*, 10:183–84. In classic iconography, this gesture represented the spoken word; in medieval Christian art, the meaning changed to that of blessing. H. P. L’Orange, *Studies on the Iconography of Cosmic Kingship in the Ancient World* (New Rochelle, N.Y.: Caratzas Brothers, 1982), 171–83.

97. Goodenough, *Symbols*, 10:184. See Helmut Koester, *Introduction to the New Testament: History, Culture, and Religion of the Hellenistic Age*, 2 vols., 2nd ed. (Berlin: Walter de Gruyter, 1995), 1:187, for the suggestion that this gesture may have been appropriated by the Jews of Asia Minor from their pagan neighbors. Note that the power to raise the dead is delegated to Ezekiel, rather than performed by God himself. Riesenfeld, *Resurrection*, 32. Riesenfeld suggests that God’s delegation of the task of resurrection to Ezekiel is paralleled by Christ’s raising of Lazarus (see 38 n. 7, noting a sarcophagus carved with a combination of these stories), just as some of Jesus’ miracles are similar to miracles performed by Elijah and Elisha. “It is perhaps more than chance that the miracles of revivification performed, according to Jewish belief, by Elijah, Elisha, and Ezekiel, each prefiguring the coming Messiah, in some way have reached fulfillment in the Messianic activity of Jesus Christ.” Riesenfeld, *Resurrection*, 38.

98. Goodenough, *Symbols*, 10:184–85; 11, figure 305.

99. Goodenough, *Symbols*, 10:184.

100. Block, *Ezekiel*, 391.

101. Goodenough, *Symbols*, 10:194.

102. Welch relates the number ten to various aspects of perfection. He observes, “Many dimensions in the Temple were ten cubits in length or height (Exodus 26:1; 1 Kings 6:23–25; 7:23–24), including the Holy of Holies, which was ten cubits by ten cubits by ten cubits (1 Kings 6:20), thus, as Philo said, embracing ‘the whole of Wisdom.’” Welch, *Sermon on the Mount*, 46; see also John W. Welch, “Counting to Ten,” *Journal of Book of Mormon Studies* 12, no. 2 (2003): 42–57.

103. Schubert, “Jewish Pictorial Traditions,” 188.

104. Schubert, "Jewish Pictorial Traditions," 188.

105. Goodenough, *Symbols*, 10:195; see Philo, "On the Virtues," in *Philo*, 8:283; Jeremiah 31:33; compare Andrew F. Ehat, "'It Seems Like Heaven Began on Earth': Joseph Smith and the Constitution of the Kingdom of God," *BYU Studies* 20, no. 3 (1980): 5–6.

106. Some scholars have dismissed the depictions of this distinctive clothing as merely the product of slavish copying by the mural makers from standard design books. Others assert that different marks may serve merely to distinguish between male and female garments. Avi-Yonah, "Goodenough's Evaluation of the Dura Paintings," 120–21. However, Goodenough notes that distinctive marks are found not only in the Dura murals, but also in a cache of white textile fragments also discovered at Dura that "may well have been the contents of a box where sacred vestments were kept, or they may have been fetishistic marks, originally on sacred robes, that were preserved after the garments had been outworn." Erwin R. Goodenough, "The Greek Garments on Jewish Heroes in the Dura Synagogue," in *Biblical Motifs: Origins and Translations*, ed. Alexander Altmann (Cambridge, Mass.: Harvard University Press, 1966), 225; see also Goodenough, *Symbols*, 9:127–29. Such marks on Christian robes, as well as on clothing in Hellenistic Egypt, Palmyra, and on Roman figures of Victory are thought to be "a symbol of immortality." Goodenough, *Symbols*, 9:163. For further discussion of Goodenough's conclusions and a report of similar patterns found at Masada and elsewhere, see John W. Welch and Claire Foley, "Gammadia on Early Jewish and Christian Garments," *BYU Studies* 36, no. 3 (1996–97): 253–58.

107. Goodenough, *Symbols*, 10:205; see also 9:88–89, 126–29, 162–64; Goodenough, "Greek Garments on Jewish Heroes." In describing the purple "outer garment of the high priest as depicted in the murals of the Dura Europos synagogue" (see, for example, the figure of Aaron in Goodenough, *Symbols*, 11, plate 10), Nibley notes that "the white undergarment is the proper preexistent glory of the wearer, while the other is the priesthood later added to it." Nibley, *Message of the Joseph Smith Papyri*, 489–90. The dark-blue or purple color of the robe of the high priest simultaneously served as a symbol of incarnation of the divine Logos. Wesley Williams, "The Shadow of God: Speculations on the Body Divine in Jewish Esoteric Tradition," 34, <http://www.theblackgod.com/Shadow%20of%20God%20Short%5B1%5D.pdf>.

108. Goodenough, *Symbols*, 10:185; see Ezekiel 17:22–24; 28:14; 34:27; 36:30; 47:7, 12.

109. Diane E. Wirth, *Parallels: Mesoamerican and Ancient Middle Eastern Traditions* (St. George, Utah: Stonecliff Publishing, 2003), 151–54.

110. Riesenfeld, *Resurrection*, 11; see, for example, Isaiah 26:19: "The earth shall cast out the dead." For an overview of scholarship relating to the question of the symbolism representing an individual bodily resurrection rather than merely the collective redemption of Israel, see Bradshaw, *Image and Likeness*, 780–81, and Goldstein, "Judaism of the Synagogues," 111. Relating to Nibley's references to new year rites mentioned above is Riesenfeld's suggestion that Jewish beliefs in the resurrection were connected with just such rites. He argues that the rites of enthronement enacted during the Feast of the Tabernacles "culminated in the solemn exaltation or 'resurrection' which followed upon the king's struggle against the powers of Chaos and Death and the dramatic representation of his humiliation

and descent to Hades. . . . [T]he king's resurrection and enthronization signified new life and new birth for the people within the frame of the covenant. . . . That which was enacted annually in the ritual drama was to take place in the future in a more marked or final way." Riesenfeld, *Resurrection*, 5–6. David J. Larsen also notes: "This notion of coming forth from the womb is probably what is suggested by the strange language in Psalm 110:3, where the Davidic king has come forth from the 'womb of dawn.' It was likely related to the ritualized death and rebirth of the king before his enthronement." David J. Larsen, email to Jeffrey M. Bradshaw, January 2, 2010.

111. Goldstein, "Judaism of the Synagogues," 150; see Ezekiel 34:13, 36:1–15.

112. Goldstein, "Judaism of the Synagogues," 147, sees them both as olive trees, though the trees are not identical. Could there be any relevance in the Book of Mormon imagery that distinguishes between "tame" and "wild" olive trees in representations of the scattered House of Israel (Jacob 5)?

113. Scholem, *Jewish Mysticism*, 232, see also 236 and 404–5 n. 105; Gershom Scholem, *Kabbalah* (New York: Dorset Press, 1987), 112, 124–28, 166–68; Daniel C. Matt, ed. and trans., *The Zohar: Pritzker Edition*, vol. 1 (Palo Alto, Calif.: Stanford University Press, 2004), 85, 222.

114. Kraeling, *Synagogue*, 191. The imagery is even more striking in light of the Old Testament connection between Torah and the tree of life (Prov. 3:18).

115. Goodenough, *Symbols*, 10:187.

116. Goodenough, *Symbols*, 10:185, 187. Goldstein concurs with Goodenough's identification and elaborates on the symbolism of the panel. Goldstein, "Judaism of the Synagogues," 151–53.

117. Goodenough, *Symbols*, 10:187.

118. Goodenough, *Symbols*, 10:188; compare David Satran and Benjamin Wright, "Martyrological Traditions," in *The Apocryphal Ezekiel*, ed. Michael E. Stone, Benjamin G. Wright, and David Satran, *Early Judaism and Its Literature* vol. 18, ed. John C. Reeves (Atlanta: Society of Biblical Literature, 2000), 95, 100; J. Edward Wright, "The Synagogue Paintings from Dura-Europos," in Stone, Wright, and Satran, *Apocryphal Ezekiel*, 104–5; William L. Lane, *Hebrews 9–13*, Word Biblical Commentary vol. 47B, ed. David A. Hubbard, Glenn W. Barker, and Ralph P. Martin (Dallas: Word Books, 1991), 390–91; Paul Ellingworth, *The Epistle to the Hebrews: A Commentary on the Greek Text*, The New International Greek Testament Commentary, ed. I. Howard Marshall and W. Ward Gasque (Grand Rapids, Mich.: William B. Eerdmans, 1993), 630–31; Avi-Yonah, "Goodenough's Evaluation of the Dura Paintings," 119.

119. Joseph Fielding Smith, comp., *Teachings of the Prophet Joseph Smith* (Salt Lake City: Deseret Book, 1976), 150.

120. Goodenough, *Symbols*, 10:193–94.

121. Jacob Neusner, "Studying Ancient Judaism through the Art of the Synagogue," in *Art as Religious Studies*, ed. Doug Adams and Diana Apostolos-Cappadona (New York: Crossroad, 1990), 31–32; Lee I. Levine, *Judaism and Hellenism in Antiquity: Conflict or Confluence?*, The Samuel and Althea Stroum Lectures in Jewish Studies (Seattle: University of Washington Press, 1998), 8.

122. James R. Russell, "Ezekiel and Iran," in *Armenian and Iranian Studies*, Harvard Armenian Texts and Studies, ed. James R. Russell (Cambridge, Mass.: Harvard University Press and the Armenian Heritage Press, 2004), 905. While



differing with Goodenough on many other points, Moon admits the possibility that “the Ezekiel cycle could be interpreted as resurrection and judgment.” Moon, “Nudity,” 607 n. 14.

123. See, for example, Avi-Yonah, “Goodenough’s Evaluation of the Dura Paintings”; Arthur Darby Nock, “Religious Symbols and Symbolism,” in Zeph Stewart, ed., *Arthur Darby Nock: Essays on Religion and the Ancient World*, 2 vols. (Oxford: Oxford University Press, 1972), 2:877–918.

124. See, for example, Morton Smith, in Neusner, *Synagogue*, 56; compare Elias J. Bickerman, “Symbolism in the Dura Synagogue: A Review Article,” *The Harvard Theological Review* 48 no. 1 (January 1965): 129–30; John M. G. Barclay, *Jews in the Mediterranean Diaspora: From Alexander to Trajan (323 BCE–117 CE)* (Edinburgh: T&T Clark, 1996), 165 n. 90; Joseph Gutmann, “Introduction,” in Gutmann, *Dura-Europos Synagogue*, xxiii–xxiv.

125. Ithamar Gruenwald, cited in Magness, “Heaven,” 5 n. 10.

126. See, for example, Magness, “Heaven.”

127. Bickerman, “Symbolism in the Dura Synagogue,” 129.

128. Magness, “Heaven,” 5; see Rachel Elior, *The Three Temples: On the Emergence of Jewish Mysticism*, trans. David Louvish (Oxford: Littman Library of Jewish Civilization, 2004).

129. Levine, *Judaism*, 8 n. 6.

130. Luke T. Johnson, *Religious Experience in Earliest Christianity: A Missing Dimension in New Testament Studies* (Minneapolis: Augsburg Fortress, 1998), 90–91.

131. Christopher C. Rowland and Christopher R. A. Morray-Jones, *The Mystery of God: Early Jewish Mysticism and the New Testament*, *Compendia Rerum Iudaicarum ad Novum Testamentum* 12, ed. Pieter Willem van der Horst and Peter J. Tomson (Leiden: Brill, 2009), 28–30.

132. Goodenough, *Symbols*, 9:122.

133. John J. Collins, *Between Athens and Jerusalem: Jewish Identity in the Hellenistic Diaspora* (Grand Rapids, Mich.: Eerdmans, 2000), 210–60.

134. Fletcher-Louis, *All the Glory of Adam*.

135. Morray-Jones, “Divine Names.”

136. Gutmann, “Introduction,” xxii–xxiii.

137. Goodenough, *Symbols*, 9:122, 10:198, 12:190–97.

138. Magness, “Heaven,” 5 n. 10. See also Elior, *The Three Temples*, 204–7, 231.

139. Goodenough, *Symbols*, 9:56–57.

140. Goodenough, *Symbols*, 9:111.

141. Matthew J. Grey, email to Jeffrey M. Bradshaw, January 5, 2010.

142. Robert Goldenberg, *The Origins of Judaism: From Canaan to the Rise of Islam* (Cambridge, U.K.: Cambridge University Press, 2007), 187.

143. Goodenough, “Greek Garments on Jewish Heroes,” 222–23.

144. Goodenough, *By Light, Light*; Goodenough, *Introduction to Philo*.

145. Eccles, *Erwin Ramsdell Goodenough*, 41, compare 37, 39.

146. For example, see Barker, *Great Angel*, 114–33; Margaret Barker, “Beyond the Veil of the Temple: The High Priestly Origins of the Apocalypses,” *Scottish Journal of Theology* 51, no. 1 (1998): 1–21, available online at <http://www.marquette.edu/maqom/veil.html>.

147. For example, Seach, *Ancient Texts and Mormonism*, 1st ed., 56–68; Seach, *Ancient Texts and Mormonism*, 2d ed., 848–53.

148. Barker, *Great Angel*, 116; compare Margaret Barker, “Temple Imagery in Philo: An Indication of the Origin of the Logos?” In *Templum Amicitiae: Essays on the Second Temple Presented to Ernst Bammel*, Journal for the Study of the New Testament Supplement Series 48, ed. William Horbury (Sheffield, U.K.: Sheffield Academic Press, 1991), 70–102. Elsewhere, Barker writes: “Philo . . . was aware of the older priestly traditions of Israel, and much in his writings that is identified as Platonism, e.g., the heavenly archetypes, the second mediator God, is more likely to have originated in the priestly traditions of the first temple.” Margaret Barker, *The Revelation of Jesus Christ* (Edinburgh: T&T Clark, 2000), 399. “Goodenough should have recognized that the ‘Moses’ mysteries were derived from the earlier Melchizedek mysteries, the original temple mysteries.” Margaret Barker, email to Jeffrey M. Bradshaw, June 11, 2007.



As Cheryl B. Preston travels and speaks on the subject of Internet regulation, she sees many reasons for hope: “Do not assume that you are in the minority with your views. There are thousands of parents and concerned citizens, many of whom are not LDS, who also feel that pornography is a destructive force.” Needed is a strong core of citizens who are informed. “We can become better educated about technology and how it works, about the political and legal process, and about the economic forces behind the pornography production and delivery industries,” says Preston.

# The Misunderstood First Amendment and Our Lives Online

Cheryl B. Preston

Do not be lulled into inaction by the pornographic profiteers who say that to remove obscenity is to deny people the rights of free choice. Do not let them masquerade licentiousness as liberty.

—President Spencer W. Kimball<sup>1</sup>

I have often wondered what words the ancient prophets who were shown our day would have used to describe iPhones and portable video game systems. With a similar concern, after quoting Isaiah 5:26–29, Elder LeGrand Richards of the Quorum of the Twelve Apostles observed:

Since there were no such things as trains and airplanes in that day, Isaiah could hardly have mentioned them by name, but he seems to have described them in unmistakable words. How better could “their horses’ hoofs be counted like flint, and their wheel like a whirlwind” than in the modern train? How better could “Their roaring . . . be like a lion” than in the roar of the airplane? Trains and airplanes do not stop for night. Therefore, was not Isaiah justified in saying “none shall slumber nor sleep; neither shall the girdle of their loins be loosed, nor the latchet of their shoes be broken”? With this manner of transportation the Lord can really “hiss unto them from the end of the earth,” that “they shall come with speed swiftly.”<sup>2</sup>

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1. Spencer W. Kimball, “A Report and a Challenge,” *Ensign* 6 (November 1976): 6.

2. LeGrand Richards, *A Marvelous Work and a Wonder* (Salt Lake City: Deseret Book, 1976), 230.



Many scriptures have multiple meanings and, as I do research on the law and Internet regulation, I have thought many times of the possible meanings of this scriptural warning: “I say unto you that the enemy in the secret chambers seeketh your lives” (D&C 38:28). As a youth I could

### **Cheryl B. Preston**

**BYU Studies:** When did you first become involved in the field of Internet law?

**Preston:** I began nearly twenty years ago studying the relationship between visual depictions of women, latent sexism, and the law. My original emphasis was on “mainstream” advertising images; in my view, the use of pornography remained on the cultural fringes. In the last decade, however, pornographic images have moved from the fringes to the mainstream of society, primarily because of the Internet’s ubiquitous distribution system.

I now teach and write regularly about Internet law and regulation.

**BYU Studies:** You maintain that the problem is fixable, but some have likened the Internet to the lawless Wild West. For the sheriff to bring order, so to speak, what questions still need to be addressed?

**Preston:** The Internet poses particularly compelling questions about the role of law. We are in the midst of a “constitutional moment” as policy makers determine how the new frontier of cyberspace will be governed. Will we apply centuries of legal and political development and seek to craft, by analogy, regulation similar to that in the real world? Will we create a stewardship over public commons that those of all ages may safely use? Or will we allow cyberspace to be shaped and controlled by powerful financial interests? Will parents now be without the support of the state in the protection of children? Will we someday realize that early on we should have carefully incorporated a base of mutual rights and respect on which to build a new world, rather than mopping up the consequences?



not have comprehended the advent of the Internet, but I am confident that the prophets saw ahead to both the vast benefits and enormous risks that would come into our homes with a small electronic box, an always-available cheap and easy portal into “secret chambers.” The next verse reminds us that the biggest risks may not be from terrorists and nuclear threats. We may be underestimating the extent to which pornographers, most of whom publish from the United States,<sup>3</sup> are stealing our souls. “You say that there will soon be great wars in far countries, but ye know not the hearts of men in your own land” (D&C 38:29).

Certainly, we have always been warned about the harms of pornography. Jesus said, “Ye have heard that it was said by them of old time, Thou shalt not commit adultery: But I say unto you, That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart” (Matt. 5:27–28). But the prophets have become increasingly insistent in their warnings during the last several decades.<sup>4</sup> This spike in prophetic warning corresponds to the development of technology.

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3. In *ACLU v. Gonzales*, Judge Reed found that roughly 50 percent of pornographic websites belong to domain name owners with addresses outside of the United States. 478 F. Supp. 2d 775, 789, finding 63 (E.D.Pa. 2007). However, a high percentage of these still serve their content using servers in the United States to avoid the enforcement of tougher laws in their home country. On top of the 50 percent of websites, 68 percent of adult *membership* sites originate within the United States. See *ACLU v. Gonzales*, 789. In *ACLU v. Gonzales*, the expert witness for the government showed that roughly 88.4 percent of pornography pages (as opposed to websites) are domestic. *ACLU v. Gonzales*, 789. An average of 80 to 90 percent of sites identified as known pornography can be traced to IP addresses assigned to U.S. geographic locations. See Jerry Ropelato, “Internet Pornography Statistics,” Top Ten Reviews, <http://internet-filter-review.topten-reviews.com/internet-pornography-statistics.html> (accessed July 20, 2009). The Top Ten Reviews website states that it compiles Internet pornography statistics from several credible sources, including ABC, Associated Press, AsiaMedia, AVN, BBC, CATW, U.S. Census, Central Intelligence Agency, Comscore Media Metrix, Crimes Against Children, Forbes, Free Speech Coalition, Google, Harris Interactive, Hitwise, Kagan Research, ICMEC, MSN, Nielsen/NetRatings, The New York Times, Yahoo!, and XBIZ.

4. See, for example, Richard G. Scott, “The Sanctity of Womanhood,” *New Era* 38 (November 2008): 2–5; Thomas S. Monson, “Standards of Strength,” *New Era* 38 (October 2008): 2–5; Dallin H. Oaks, “He Heals the Heavy Laden,” *Ensign* 36 (November 2006): 6–9; Gordon B. Hinckley, “Rise Up, O Men of God,” *Ensign* 36 (November 2006): 59–61; Thomas S. Monson, “True to the Faith,” *Ensign* 36 (May 2006): 18–21; Dallin H. Oaks, “Pornography,” *Ensign* 35 (May 2005): 87–90; Gordon B. Hinckley, “A Tragic Evil among Us,” *Ensign* 34 (November 2004): 59–62; M. Russell Ballard, “Be Strong in the Lord,” *Ensign* 34 (July 2004): 8–15; Thomas S. Monson, “Pornography, the Deadly Carrier,” *Ensign* 31

Perhaps President Kimball was thinking of our time when, in 1974, he referred to “inventions of which we laymen have hardly had a glimpse.”<sup>5</sup> He then referred back to a speech by President David O. McKay in the October 1966 conference in which he said, of the scientific discoveries that will make possible the preaching of the gospel to every kindred, tongue, and people, that they “stagger the imagination.”<sup>6</sup> As wonderful as modern technological discoveries are, President McKay warned that they were “discoveries latent with such potent power, either for the blessing or the destruction of human beings, as to make men’s *responsibility in controlling them the most gigantic ever placed in human hands*. . . . This age is fraught with limitless perils, as well as untold possibilities.”<sup>7</sup>

One such peril is undoubtedly the easy availability of pornography on the Internet. Among the tools available to us in our “responsibility to control” these powers is the law. In this article, after briefly discussing the scope of the Internet pornography problem—the amount and the consequences—I will explain three aspects of the law as it relates to Internet pornography. First, I will review the often-misunderstood scope of the U.S. Constitution’s First Amendment protections on speech. Second, I will describe the history of attempts to fill the gap in the law as it relates

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(July 2001): 2–5; Gordon B. Hinckley, “Great Shall Be the Peace of Thy Children,” *Ensign* 30 (November 2000): 50–53.

In addition, use of pornography has been mentioned and condemned in recent speeches on a variety of topics. See, for example, Boyd K. Packer, “Counsel to Young Men,” *Ensign* 39 (May 2009): 50; Robert D. Hales, “Becoming Provident Providers Temporally and Spiritually,” *Ensign* 39 (May 2009): 7; Dallin H. Oaks and Kristen M. Oaks, “Learning and Latter-day Saints,” *Ensign* 39 (April 2009): 24; D. Todd Christofferson, “Come to Zion,” *Ensign* 38 (November 2008): 39; Richard G. Scott, “Honor the Priesthood and Use It Well,” *Ensign* 38 (November 2008): 45; M. Russell Ballard, “Sharing the Gospel Using the Internet,” *Ensign* 38 (July 2008): 60; Russell M. Nelson, “You Are a Child of God,” *New Era* 38 (July 2008): 6; Dieter F. Uchtdorf, “A Matter of a Few Degrees,” *Ensign* 38 (May 2008): 59; Russell M. Nelson, “Salvation and Exaltation,” *Ensign* 38 (May 2008): 9; Henry B. Eyring, “God Helps the Faithful Priesthood Holder,” *Ensign* 37 (November 2007): 58; James E. Faust, “The Power to Change,” *Ensign* 37 (November 2007): 123; James E. Faust, “Put Light in Your Life,” *New Era* 37 (June 2007): 5; Russell M. Nelson, “Repentance and Conversion,” *Ensign* 37 (May 2007): 104; Russell M. Nelson, “Faith and Families,” *Ensign* 37 (March 2007): 39; Jeffrey R. Holland, “Broken Things to Mend,” *Ensign* 36 (May 2006): 70.

5. Spencer W. Kimball, “When the World Will Be Converted,” *Ensign* 4 (October 1974): 10.

6. David O. McKay, “A Divine Plan for Finding Security and Peace of Mind,” *Improvement Era* 69 (December 1966): 1091.

7. McKay, “Divine Plan for Finding Security,” 1091–92 (emphasis added).

to Internet pornography. Third, I will suggest some possibilities for how law and technology can be harnessed to provide at least some protections, and I will recommend some nonlaw efforts as well. At this point the battle is political more than legal. Constitutional parameters can be crafted, but Congress has not yet felt sufficient pressure to continue to explore them.

## HOW MUCH?

Although pornography has been around in various forms for centuries,<sup>8</sup> the nature and availability of this vice changed dramatically with the advent of the Internet. Although everyone seems to know that Internet pornography is rampant, very few comprehend the true scope of the problem, in terms both of increased amount and increased access.<sup>9</sup> These images are now available in the privacy of one's home or office (or by Wi-Fi in a public park), at any time of the day or night, frequently for free, and in astonishingly intense digital displays. As recently as the mid-1990s, such access could be had only by those willing to take the time, effort, and risk of traveling to and being seen in suspicious neighborhoods, hiding hard copies, paying high prices, and either proving an appropriate age or violating the law. The natural barriers to use, especially impulsive or exploratory use, are gone.

While no one is sure how much porn is actually being published online, one expert has estimated 275 million to 700 million pages of sexually explicit material are available at any one time.<sup>10</sup> Even if an Internet filter were 95 percent effective at blocking porn, this would still leave up to 35 million unblocked pages. The rate of growth is remarkable. In 1998, there were 14 million identified pages of pornography,<sup>11</sup> and by 2006, that

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8. For a brief history of pornography, see Thomas P. Kalman, "Clinical Encounters with Internet Pornography," *Journal of the American Academy of Psychoanalysis and Dynamic Psychiatry* 36, no. 4 (2008): 594–95.

9. For further discussion of the changes over the last decade, see Cheryl B. Preston, "The Internet and Pornography: What If Congress and the Supreme Court Had Been Comprised of Techies in 1995–1997?" *Michigan State Law Review* 2008 (Spring): 61–102, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1147142](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1147142).

10. *ACLU v. Gonzales*, 788, finding 62 (accepting testimony of expert Matthew Zook concerning pornography statistics).

11. Covenant Eyes, "Internet Pornography Statistics," [http://www.covenanteyes.com/help\\_and\\_support/article/internet\\_pornography\\_statistics/?c=80](http://www.covenanteyes.com/help_and_support/article/internet_pornography_statistics/?c=80) (accessed August 11, 2009); see also New York State Division of Criminal Justice Services, "Pornography—Dangers: Access by Children to Pornography," [http://criminaljustice.state.ny.us/missing/i\\_safety/porn\\_dangers.htm](http://criminaljustice.state.ny.us/missing/i_safety/porn_dangers.htm) (accessed August 11, 2009).



number had increased by 3,000 percent to 420 million.<sup>12</sup> Additionally, the Internet has increased the volume of hard-core pornography available to the average viewer, and “the percentage of degrading, violent, misogynistic pornography continues to increase,” including child pornography.<sup>13</sup>

Experienced mental health professionals are seeing an increase in patients seeking help for pornography addiction.<sup>14</sup> Researcher Dr. Thomas Kalman determined, after conducting a study of clinical cases involving pornography, that the fundamental content of pornography has not changed so much. Rather, Kalman concludes that the results seen in his and others’ studies “relate to the medium of delivery, and the particular technological attributes of the Internet. . . . Never before, in the history of pornography, has so much been so cheaply available to so many.”<sup>15</sup>

In 1998, Al Cooper coined the phrase “Triple-A Engine” to describe the three main factors that “combin[e] to make the Internet such a powerful force in the area of sexuality . . . Access, Affordability, and Anonymity.”<sup>16</sup>

The Triple-A Engine effect, in particular, is widely accepted as the primary reason why many pre-existing problems with other forms of pornography have been exacerbated in the last decade, and why many individuals who would not have been involved with this material prior to the advent of the Internet, have been drawn into problematic pornography consumption.<sup>17</sup>

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12. Ropelato, “Internet Pornography Statistics.”

13. Donna M. Hughes, “The Use of New Communications and Information Technologies for Sexual Exploitation of Women and Children,” *Hastings Women’s Law Journal* 13 (Winter 2002): 137–38.

14. Kalman, “Clinical Encounters,” 598, writes: “Increasingly, however, psychotherapists are encountering anecdotal reports of problems related to Internet pornography use.” For a useful discussion of how pornography addiction occurs and the physiological aspects from the perspective of a physician, see Donald L. Hilton Jr., *He Restoreth My Soul: Understanding and Breaking the Chemical and Spiritual Chains of Pornography Addiction through the Atonement of Jesus Christ* (San Antonio, Tex.: Forward Press, 2009), 51–74. Dr. Hilton also offers solid suggestions for rehabilitation.

15. Kalman, “Clinical Encounters,” 609.

16. Al Cooper, “Sexuality and the Internet: Surfing into the New Millennium,” *CyberPsychology and Behavior* 1, no.2 (1998): 187; see also Dallin H. Oaks, “Focus and Priorities,” *Liahona* 25 (July 2001): 100. Elder Oaks says: “The Internet has made pornography accessible almost without effort and often without leaving the privacy of one’s home or room. The Internet has also facilitated the predatory activities of adults who use its anonymity and accessibility to stalk children for evil purposes.”

17. Jill C. Manning, “The Impact of Internet Pornography on Marriage and the Family: A Review of the Research,” *Sexual Addiction and Compulsivity* 13, no. 2/3 (2006): 134.

In addition, Pamela Paul adds “Acceptable” to the triple-A engine described above.<sup>18</sup> Although the Church’s stance on pornography has not changed over the years, members no longer have the additional deterrent of the strong social stigma that once attached to pornography use in secular communities.<sup>19</sup>

Teens are not only viewing pornography; they are creating pornography of their own. “The practice of ‘sexting’—sending nude pictures via text message—is not unusual, especially for high schoolers around the country.”<sup>20</sup> The purveyors of this practice include minors in junior highs and high schools in Davis County, Utah,<sup>21</sup> where the population is predominantly LDS.<sup>22</sup>

Among the many incentives for proliferating the amount and reach of pornography is, of course, money. In 2006, U.S. pornography industry revenues were estimated to be \$13.3 billion, with about \$2.84 billion coming from Internet pornography alone.<sup>23</sup> The \$2.84 billion figure represents a

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18. Pamela Paul, *Pornified: How Pornography Is Transforming Our Lives, Our Relationships, and Our Families* (New York: Times Books, 2005), 4.

19. In a study involving university students ages eighteen to twenty-six, “two thirds (66.5%) of emerging adult men reported that they agreed, at some level, that viewing pornography is acceptable,” and 48.7 percent of emerging adult women agreed that “viewing pornography [is] an acceptable way to express one’s sexuality.” Jason S. Carroll and others, “Generation XXX: Pornography Acceptance and Use Among Emerging Adults,” *Journal of Adolescent Research* 23 (January 2008): 16.

20. CBS News, “‘Sexting’ Shockingly Common Among Teens,” *CBS News.com*, January 15, 2009, <http://www.cbsnews.com/stories/2009/01/15/national/main4723161.shtml>. The CBS News article continues, “Roughly 20 percent of teens admit to participating in ‘sexting,’ according to a nationwide survey by the National Campaign to Support Teen and Unplanned Pregnancy.”

21. Ben Winslow, “Cases of Nude Photos by Teens Grows to 28 in Davis County,” *Deseret News*, April 1, 2008, B05, discusses the “trading of nude and sexually explicit pictures between teens over cell phones” in five junior highs and three high schools in Davis County, Utah.

22. Brandon Loomis and Matt Canham, “Utah’s Population Growth Slows, and LDS Percentages Dip, Too,” *Salt Lake Tribune*, November 20, 2008, available at [www.sltrib.com](http://www.sltrib.com).

23. Ropelato, “Internet Pornography Statistics.” Some estimate the share of the American economy closer to \$12 billion. Paul Sloan, “Getting in the Skin Game: An Entrepreneur Tries to Make it Easier for Everyone to Profit from One of the Economy’s Dirty Little Secrets,” *Business 2.0*, February 13, 2007, [http://money.cnn.com/magazines/business2/business2\\_archive/2006/11/01/8392016/index.htm](http://money.cnn.com/magazines/business2/business2_archive/2006/11/01/8392016/index.htm). This U.S. share “represents more revenue than the professional football, baseball, and basketball franchises combined or the combined revenues of ABC, CBS, and NBC.” Additionally, “every second of the day \$3,075 is spent on the adult industry and related products. The same second of each day commands

14 percent increase in a single year<sup>24</sup> and does not include the explosion of free pornography.<sup>25</sup> In 2008, the adult entertainment industry was estimated at \$57 billion globally.<sup>26</sup>

Professionals in the lucrative adult entertainment industry are not the only ones making money off of Internet pornography. Amateur photographers and filmmakers now have the technology to easily upload pictures and videos of themselves and others to the Internet in order to turn a profit.<sup>27</sup> “Reputable” websites, such as eHow.com and ecommerce-journal.com, have articles on how to become an amateur porn star,<sup>28</sup> and sites such as Voyeurweb offer cash prizes in categories such as “newcomer of the month,” and “best lingerie shot.”<sup>29</sup> Other sites, such as SexBankRoll, provide services that set up websites with suggestive names and advertisers who will pay “per hit” to put ads and links on the page. All the purchaser or “affiliate” has to do is keep the site stocked with pornographic images of themselves, their friends, or anyone else willing to pose, to attract viewers to the site. The Web service and the purchaser then split the profits that come from the advertisers.<sup>30</sup>

In addition to those who create the images and sell them, many others have significant economic stake in online pornography. Search engines,

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an audience of 28,258 Internet users viewing adult performances.” “Adult Entertainment Capital Corporation Begins Trading Today Under A New Name and a New Symbol,” *Reuters News Service*, September 16, 2008, <http://www.reuters.com/article/pressRelease/idUS129147+16-Sep-2008+PRN20080916> (quoting Adult Entertainment Capital Corporation statistics).

24. Ropelato, “Internet Pornography Statistics.”

25. Claire Hoffman, “Obscene Losses,” *Portfolio.com*, October 15, 2007, <http://www.portfolio.com/culture-lifestyle/culture-inc/arts/2007/10/15/YouPorn-Vivid-Entertainment-Profile>.

26. “Adult Entertainment Capital Corporation Begins Trading.”

27. Preston, “Internet and Pornography,” 83–85.

28. eHow.com, “How to Become an Amateur Porn Model,” [http://www.ehow.com/how\\_2050892\\_become-amateur-porn-model.html](http://www.ehow.com/how_2050892_become-amateur-porn-model.html) (accessed July 22, 2009); “How to Become a Porn Star on the Internet?” *Ecommerce Journal*, June 18, 2009, [http://www.ecommerce-journal.com/articles/16276\\_how\\_to\\_become\\_a\\_porn\\_star](http://www.ecommerce-journal.com/articles/16276_how_to_become_a_porn_star).

29. Hal Niedzviecki, “The Other Porn Addiction,” *The Walrus*, April 2009, <http://www.walrusmagazine.com/articles/2009.04-society-the-other-porn-addiction-niedzviecki/>.

30. Steve Javors, “SexBankRoll Affiliate Program Debuts,” *XBiz*, September 7, 2006, [http://xbiz.com/news/news\\_piece.php?id=17026&mi=all&q=steve+javors](http://xbiz.com/news/news_piece.php?id=17026&mi=all&q=steve+javors). For information on other such “affiliate programs,” see (or, rather, *don’t* see) *XBiz*, <http://xbiz.com/directory/id=18&pid=1> (accessed August 10, 2009).

such as Yahoo!, have shopping sites through which they sell pornography.<sup>31</sup> In addition, Google's AdWords allows online businesses to pay extra to assure that their sites and ads appear in response to keyword searches. Then, Google collects a fee each time someone clicks on the ad.<sup>32</sup> Such links to pornography sites are highly profitable. Similarly, Yahoo! charges a flat fee for the privilege of being listed in its directory, as well as a percentage of each sale made through Yahoo! online shops.<sup>33</sup> Neither Google nor Yahoo! will release specific numbers for profits from pornography advertisements. One analyst estimated that "no more than 10 percent of [Google's] total revenue comes from adult material,"<sup>34</sup> but with revenues coming in "at the rate of more than \$2 million an hour,"<sup>35</sup> that is no small amount.

Investors are increasingly buying stock in companies that once would have been a hiss and a byword. The porn production industry is facing some downturn in profit caused by the recession that began in 2008 and by competition from pirated copies, free content, and materials on social network sites. Nonetheless, it may still be the "most reliable bull market in the

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31. "Adult products have been available through Yahoo! Shopping for more than two years." P. J. Huffstutter, "Yahoo's Search for Profit Leads to Pornography," *Los Angeles Times*, home edition, April 11, 2001, A-1.

32. Cade Metz, "Google's Riches Rely on Ads, Algorithms, and Worldwide Confusion," *Register*, March 18, 2008, [http://www.theregister.co.uk/2008/03/18/when\\_google\\_does\\_evil/](http://www.theregister.co.uk/2008/03/18/when_google_does_evil/). "Google is not above making money from promoting adult material—AdWords is crammed full of XXX advertisers." Reprise Media, "How Very Grown-Up? Google Video Adds 'Mature and Adult' Category," *searchviews*, August 14, 2006, <http://www.searchviews.com/index.php/archives/2006/08/how-very-grown-up-google-video-adds-mature-and-adult-category.php>.

33. See Huffstutter, "Yahoo's Search for Profit." Huffstader argues, "As it does with its other online stores, Yahoo will receive a percentage of each sale, according to merchants working with Yahoo. . . . Around the beginning of the year, Yahoo began charging online commerce sites a fee if they wanted to be listed in its directory."

34. Andrea Orr, "Wall Street Not Ready for Porn on the Internet," *Reuters News* (April 3, 2002), quoting Safa Rashtchy of U.S. Bancorp Piper Jaffray. See also Saul Hansell, "Is Yahoo Flying High with a Bull's-Eye on Its Back?" *New York Times*, late edition (East Coast) February 1, 1998, sec. 3, p. 4, which provides an earlier estimate that "20 percent of Yahoo's ad revenue comes from ads for pornographic Web sites."

35. Miguel Helft, "The Humans Behind the Google Money Machine," *New York Times*, late edition (East Coast) June 2, 2008, C1, available at <http://www.nytimes.com/2008/06/02/technology/02google.html>. See also Metz, "Google's Riches Rely on Ads," 6, reports that, "During the fourth quarter of 2007, Google-owned sites raked in \$3.12bn in revenue, and revenue from partner sites topped \$1.6bn."



world.”<sup>36</sup> According to Francis Koenig, who created AdultVest (now Adult Entertainment Capital Corporation) and woos “brokerages interested in syndicating deals to sell to their Main Street investors[,] ‘People just need to get less shy, . . . and they’ll realize that there’s silly money to be made’” in the adult industry.<sup>37</sup> And some “mainstream” businesses have indeed become less shy. For instance, the sale of commonplace devices that access porn is a thriving business. Nationwide, “parents are buying their children the tools necessary to access astonishingly degrading and violent sexually explicit materials. For instance, innocent looking gaming systems, *i.e.*, PlayStation Portable, X-Box 360, and Nintendo Wii, can access the Internet and are available everywhere from around \$130 to \$500.”<sup>38</sup> In addition to browser-enabled game players, one recent study reports that 72 percent of minors between ages thirteen and seventeen have a mobile phone,<sup>39</sup> and another study found that one in five of these teens access the Internet with their phone. Of these, one in five report that their parents are not aware that they go online via their phone.<sup>40</sup> These systems do not come with a built-in browsing content filter and cannot be modified by software to add any protections.<sup>41</sup> While a parent can sign up the device with an Internet service provider that offers a filter,<sup>42</sup> a child can find another unsecured WiFi server to use instead.

These tools, as well as laptop computers, can pick up wireless Internet signals in “hotspots” all over the country, including in cafes and restaurants. In Utah, for instance, many businesses and public entities provide free

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36. Ki Mae Heussner, “Porn Production Losing Ground on Technology,” *ABC News*, January 9, 2009, <http://abcnews.go.com/print?id=6611954>.

37. Sloan, “Getting in the Skin Game.”

38. Cheryl B. Preston, “WiFi in Utah: Legal and Social Issues,” *Utah Bar Journal* 20 (September and October 2007): 29, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1148446](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1148446). For an in-depth discussion of WiFi risks, see the entire article.

39. See Federal Communications Commission (FCC), *Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming Report*, August 27, 2009, 45, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-09-69A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-69A1.pdf), citing Progress and Freedom Foundation Comments, 63.

40. FCC, *Implementation of the Child Safe Viewing Act*, 45, citing Cox Communications Teen Online & Wireless Safety Survey: Cyberbullying, Sexting, and Parental Controls, May 2009, 49.

41. Cheryl B. Preston, “Making Family-Friendly Internet a Reality: The Internet Community Ports Act,” *Brigham Young University Law Review*, 2007, no. 6: 1495 n. 100, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1146651](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1146651).

42. FCC, *Implementation of the Child Safe Viewing Act*, 43–45.

unsecured wireless Internet access,<sup>43</sup> and proposals are in the works for more, including citywide access. In addition, thousands of homes in Utah are set up with unsecured wireless routers. These electromagnetic signals cannot be stopped at property lines, and when not secured with a password or otherwise, they can be used by anyone on the street or in the house next door. While free wireless access is an important economic development, unsecured community access to the Internet makes home computer filters and other barriers to accessing pornography ineffective.

Along with the increased availability of the Internet comes the increased availability of the full range of pornography. Simply putting the family computer in a visible area of the home is not a sufficient resolution to the problem. Wherever people work, play, and live, it is becoming easier and cheaper to be instantly online with various devices.

### HOW SERIOUS?

The deluge of pornography over the Internet is a relatively new phenomenon. It is reaching a broader and younger audience than ever before. It will take some time for the long-range studies to be published. Although not every extant study provides unambiguous support for the harmful consequences of pornography use and addiction, modern prophets have been unequivocal. Pornography, as “compounded by the Internet,”<sup>44</sup> is “destructive,”<sup>45</sup> “corrosive,”<sup>46</sup> “corrupting,”<sup>47</sup> “overpoweringly addictive and severely damaging,”<sup>48</sup> an “avalanche of evil,”<sup>49</sup> “a great disease,”<sup>50</sup> “vicious . . . and habit-forming,”<sup>51</sup> a “pernicious contemporary plague,”<sup>52</sup> “as addictive as

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43. See XMission, “Wireless,” <http://www.xmission.com/wireless/index.html> (accessed August 12, 2009); “The Wi-Fi-FreeSpot Directory,” <http://www.wifi-freespot.com/ut.html> (accessed August 12, 2009).

44. Hinckley, “Tragic Evil among Us,” 61. President Hinckley continues, “The Internet has made pornography more widely accessible, adding to what is available on DVDs and videos, on television and magazine stands.” See also Monson, “True to the Faith,” 18, who writes, “One of the most accessible sources of pornography today is the Internet, where one can turn on a computer and instantly have at his fingertips countless sites featuring pornography.”

45. Gordon B. Hinckley, “Living Worthy of the Girl You Will Someday Marry,” *Ensign* 28 (May 1998): 49.

46. James E. Faust, “Don’t Be Afraid,” *New Era* 28 (July 1998): 8.

47. Oaks, “Pornography,” 87.

48. Scott, “Sanctity of Womanhood,” 5.

49. Oaks, “Pornography,” 87.

50. “Recurring Themes of President Hinckley,” *Ensign* 30 (June 2000): 20.

51. Hinckley, “Great Shall Be the Peace of Thy Children,” 51.

52. Holland, “Broken Things to Mend,” 70.

cocaine,”<sup>53</sup> and “one of the most damning influences on earth, one that has caused uncountable grief, suffering, heartache, and destroyed marriages.”<sup>54</sup>

Internet pornography poses dangers other than addiction.<sup>55</sup> Anyone familiar with the Internet now knows that it has become a marketing miracle for commercial pornographers and a tool for sexual predators.<sup>56</sup> The FBI claims that “pornography is often used in the sexual victimization of children.”<sup>57</sup> Pornography is an effective tool for seduction because it “is used to lower the natural, innate resistance of children to performing sexual acts, thus functioning as a primer for child sexual abuse.”<sup>58</sup> A study reported in the *New York Times* in 2007 suggested a direct link between the use of pornography and actual acts of sexual abuse against children. It showed that as many as 85 percent of those convicted for trafficking in child pornography admitted also to inappropriately touching or raping children.<sup>59</sup>

Pornography attacks the very heart of the plan of salvation—the sanctity of the marriage relationship and our agency. By separating satisfaction from mutual giving and sex from intimacy, it feeds selfishness and erodes

53. James E. Faust, “The Enemy Within,” *Liahona* 25 (January 2001): 55; see also Oaks, “Pornography,” 89, who writes, “A man who had been addicted to pornography and to hard drugs wrote me this comparison: ‘In my eyes cocaine doesn’t hold a candle to this. I have done both. . . . Quitting even the hardest drugs was nothing compared to [trying to quit pornography]’”; see also Dan Gray, “Talking to Youth about Pornography,” *Liahona* 31 (July 2007): 40, who writes, “The addiction is established when a person becomes dependent on the ‘rush’ of chemicals the body creates when one views pornography. He or she learns to depend on this activity to escape from or cope with life’s challenges and emotional stressors like hurt, anger, boredom, loneliness, or fatigue.”

54. Scott, “Sanctity of Womanhood,” 5.

55. On the dangers of addiction, see generally Hilton, *He Restoreth My Soul*, 75–103.

56. See Ropelato, “Internet Pornography Statistics”; see also New York State Division of Criminal Justice Services, “Online Safety,” [http://criminaljustice.state.ny.us/missing/i\\_safety/i\\_intro.htm](http://criminaljustice.state.ny.us/missing/i_safety/i_intro.htm) (accessed August 12, 2009).

57. Federal Bureau of Investigation, “A Parent’s Guide to Internet Safety,” available at <http://www.fbi.gov/publications/pguide/pguidee.htm> (accessed August 12, 2009).

58. Sharon Cooper and others, *Medical, Legal, and Social Science Aspects of Child Sexual Exploitation: A Comprehensive Review of Pornography, Prostitution, and Internet Crimes* (St. Louis, Mo.: G.W. Medical Publishing, 2005), 198, citing Diane H. Schetky and Arthur H. Green, *Child Sexual Abuse: A Handbook for Health Care and Legal Professionals* (New York: Brunner/Mazel, 1988).

59. Julian Sher and Benedict Carey, “Debate on Child Pornography’s Link to Molesting,” *New York Times*, late edition (East Coast) July 19, 2007, A20, available at <http://www.nytimes.com/2007/07/19/us/19sex.html>.

relationships. Some addictions, including “unworthy sexual behavior, and viewing pornography, . . . can control us to the point where they take away our God-given agency. One of Satan’s great tools is to find ways to control us.”<sup>60</sup>

As the battle continues against the devastating consequences of pornography, we see how many attempt to “masquerade licentiousness as liberty.”<sup>61</sup> Under the banner of free speech, pornographers seek the protection of the Constitution in continuing to make their products available on the Internet, even to children.

### THE LAW AND FREEDOM OF SPEECH

Many advocates of unfettered license on the Internet claim that the First Amendment gives a blanket free expression right to publish what they will without any accountability or restrictions. But the First Amendment, although deeply cherished, has never been interpreted as permitting speech rights to trump every other constitutional value. The leading legal treatise on free speech provides this overview: “Although absolutism is attractive for its intense commitment to freedom of speech, it proves to be too brittle and simplistic a methodology, and is simply not viable as a general working approach to free speech problems.”<sup>62</sup> The Supreme Court has regularly iterated this need for balance. For instance:

Although accommodations between the values protected by [the First, Fifth and Fourteenth] Amendments are sometimes necessary, and the courts properly have shown a special solicitude for the guarantees of the First Amendment, this Court has never held that . . . an uninvited guest may exercise general rights of free speech on property privately owned.<sup>63</sup>

Although the Court does apply “heightened scrutiny” to enactments that impinge on the First Amendment,<sup>64</sup> “the complexity of modern First Amendment law comes from the fact that the Court does not always apply the same level of judicial scrutiny to all conflicts involving freedom of

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60. Faust, “Power to Change,” 123–24.

61. Kimball, “Report and a Challenge,” 6.

62. Rodney A. Smolla, 1 Smolla & Nimmer on Freedom of Speech § 2:10 (2009). Smolla cites *District of Columbia v. Heller*, 128 S. Ct. 2783 (U.S. 2008) for the proposition that the right of free speech was never intended to be unlimited. “Indeed, Justice Black aside, the absolutist view has never been fully accepted by any member of the Supreme Court.” Smolla, 1 Smolla and Nimmer on Freedom of Speech § 2:53 (citing an extensive list of cases as examples).

63. *Lloyd Corporation, Ltd. v. Tanner*, 407 U.S. 551, 567–68 (1971).

64. 1 Smolla and Nimmer on Freedom of Speech § 2.61.



speech.”<sup>65</sup> Moreover, “modern First Amendment law abounds in three-part and four-part tests of various kinds.”<sup>66</sup>

Thus, while Congress must handle First Amendment issues very thoughtfully and the Court will subject statutes to one of the doctrinal levels of scrutiny,<sup>67</sup> it is simply untrue to assume that statutes cannot be drafted that will satisfy the demands of freedom of speech. Simply put, “Modern First Amendment jurisprudence permits speech to be penalized when it causes harm.”<sup>68</sup> The Supreme Court upholds regulations on (1) commercial speech, such as advertisements, solicitations, and labels;<sup>69</sup> (2) content-neutral time, place, and manner restrictions,<sup>70</sup> such as limitations on the location of sexually oriented businesses;<sup>71</sup> (3) speech on private property and on government property that is not a public forum;<sup>72</sup> (4) speech

65. 1 Smolla and Nimmer on Freedom of Speech § 2.12.

66. 1 Smolla and Nimmer on Freedom of Speech § 2.13.

67. Generally when reviewing a law, the courts employ a minimal scrutiny, meaning they defer to the judgment of the legislature if there is a rational basis for the law. See *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 84 (2000) (defining rational basis standard). However, laws that have constitutional implications may be subject to “intermediate” scrutiny. See *United States v. Virginia*, 518 U.S. 515, 533 (1996) (defining intermediate scrutiny standard). Laws that directly affect constitutional rights may be subject to “strict” scrutiny. To survive strict scrutiny, a congressional enactment must be aimed at serving a compelling governmental interest and must be narrowly tailored—not over- or under-inclusive. In addition, under strict scrutiny, a statute may be unconstitutional if there is a less restrictive alternative that would be at least as effective in achieving the government’s legitimate objectives. See *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 582 (2001).

68. 1 Smolla and Nimmer on Freedom of Speech § 4.15.

69. See, for example, *Central Hudson Gas and Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980) (holding that commercial speech is only entitled to lesser protection); *Thompson v. Western States Medical Center*, 535 U.S. 357 (2002) (affirming that government can prohibit unlawful or misleading labels or advertisements).

70. See, for example, *United States v. O’Brien*, 391 U.S. 367 (1968); *Ward v. Rock Against Racism*, 491 U.S. 781 (1989) (upholding city noise control regulation).

71. See, for example, *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 47 (1986) (holding that laws regulating sexually oriented businesses are considered content neutral if the law’s predominant purpose is to control secondary effects in the neighborhood).

72. See, for example, *Frisby v. Schultz*, 487 U.S. 474, 484-85, 488 (1988) (emphasizing the sanctity of the home as a refuge from unwanted speech and upholding a speech restriction on that basis); *Cornelius v. NAACP Legal Defense and Educational Fund*, 473 U.S. 788, 799-800 (1985) (holding that the government may restrict access to nonpublic forums).

that defames or libels another person;<sup>73</sup> (5) speech that invades the privacy of another person;<sup>74</sup> (6) speech that dilutes a trademark,<sup>75</sup> infringes on a copyright,<sup>76</sup> or reveals a trade secret;<sup>77</sup> and (7) speech that involves otherwise criminal or fraudulent activities.<sup>78</sup>

Without much stir, we accept the Do-Not-Call-Registry Act<sup>79</sup> and the Pandering Mail Act,<sup>80</sup> which permit regulation on speech to give listeners the option to keep it out of their (electronic and real-world) mailboxes. Congress's stated objective for enacting the Pandering Mail Act "was to protect minors and the privacy of homes from [sexually explicit] material."<sup>81</sup> The Court then recognized that, if the Pandering Mail Act did "impede the flow of even valid ideas" into a home, "no one has a right to press even 'good' ideas on an unwilling recipient."<sup>82</sup> Under the rationale of

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73. See, for example, *New York Times Company v. Sullivan*, 376 U.S. 254, 279–80 (1964) (holding that the Constitution does not protect libelous publications); *Dun & Bradstreet v. Greenmoss Builders, Inc.* 472 U.S. 749, 763 (1985) (holding that the First Amendment does not protect defamatory statements that do not involve matters of public concern); see also 1 Smolla and Nimmer on Freedom of Speech § 12.8; Rodney A. Smolla, *Law of Defamation* § 1.06[1] (1986).

74. See, for example, *Cantrell v. Forest City Publishing Co.*, 419 U.S. 245, 248 (1974) (holding that a family can recover from a newspaper for publishing private information placing the family in a false light in the public eye); *Frisby v. Schultz* 484–85, 488 (emphasizing the sanctity of the home as a refuge from unwanted speech and upholding a speech restriction on that basis).

75. See, for example, *San Francisco Arts & Athletics v. United States Olympic Committee*, 483 U.S. 522, 536 (1987) (upholding the protection of a trademark against a First Amendment challenge).

76. See, for example, *Eldred v. Ashcroft*, 537 U.S. 186, 219 (2003) (holding that federal copyright law does not violate the First Amendment).

77. See, for example, *DVD Copy Control Association, Inc. v. Bunner*, 31 Cal. 4th 864, 881 (Cal. 2003) (holding that an injunction preventing disclosure of trade secret does not violate the First Amendment); *Tavoulareas v. Washington Post Co.*, 724 F.2d 1010 (D.C. Cir. 1984) (holding that a court may order that a trade secret not be disclosed).

78. See, for example, *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 498 (1949) (holding that freedom of speech does not extend to protesters advocating criminal conduct).

79. 15 U.S.C. § 6101 (2003); upheld by *Mainstream Marketing Services, Inc. v. FTC*, 358 F.3d 1228 (10th Cir. 2004), cert. denied, 543 U.S. 812 (2004).

80. Postal Revenue and Federal Salary Act of 1967, 39 U.S.C. § 4009 (1964 ed. Supp. IV); upheld by *Rowan v. United States Post Office Department*, 397 U.S. 728, 730–40 (1970).

81. *Rowan v. United States Post Office Department*, 732.

82. *Rowan v. United States Post Office Department*, 738. Similarly, the Supreme Court found in a separate case that captive audiences driving or riding in streetcars should not be forced to view communications through "no 'choice or

the Pandering Mail Act, positioning a mailbox in our yard (or opening a browser) to receive what we desire (or what we want delivered in response to an innocent search request) does not mean it is our duty to take all solicitations and then sift through and throw out the material we find offensive. We have an option to block delivery.

Further, the Supreme Court has ruled that some forms of speech are not protected at all by the First Amendment and thus can be regulated by the government. This includes “obscenity,” which is a technical term for a very limited amount of hard-core material, and “child pornography,” which involves sexually explicit images produced using an actual child. In addition, only limited scrutiny is given to regulation of “indecent” material on broadcast media during prime time and to sales to minors of hard-copy sexual material, even if not obscene or harmful for adults.

Although the term “obscene,” sometimes gets used casually, for legal purposes it includes only a small category of extreme speech. In 1973, the Supreme Court established in *Miller v. California* that material is obscene, and thus without First Amendment protection, only if it meets all three of the following tests: (1) “whether ‘the average person, applying contemporary community standards,’ would find that the work, taken as a whole, appeals to the prurient interest”; (2) “whether the work depicts or describes, in a patently offensive way, sexual conduct”; and (3) “whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.”<sup>83</sup> Although most speech escapes characterization as obscenity because of this last prong, it is also increasingly challenging to characterize speech as “patently offensive” now that “contemporary community standards” have become more lax.

*New York v. Ferber* (1982) held that states may prohibit child pornography, in addition to obscenity, even if it does not meet the *Miller* guidelines, because of the states’ compelling interest “in ‘safeguarding the physical and psychological well-being of a minor.’”<sup>84</sup> A statute prohibiting child pornography will not run afoul of the First Amendment as long as the statute suitably limits and describes the proscribed conduct and applies only to depictions of children below age eighteen.<sup>85</sup>

The states’ ability to regulate child pornography does not extend, however, to what has become known as “simulated” child pornography.

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volition” of their own. *Lehman v. City of Shaker Heights*, 418 U.S. 298, 302 (1974), quoting *Packer Corp. v. Utah*, 285 U.S. 105, 110 (1932).

83. *Miller v. California*, 413 U.S. 15, 24 (1973).

84. *New York v. Ferber*, 458 U.S. 747, 756–57 (1982).

85. *New York v. Ferber*, 764.

Simulated child pornography is produced using computer-generated images, youthful looking adult models, or other means of creating what appears to be a sexually explicit image of a child, without the involvement of a real child.<sup>86</sup> This type of child pornography is protected by the First Amendment and must meet the legal definition of “obscene” to be prohibited.<sup>87</sup> In 2002, the Court determined in *Ashcroft v. Free Speech Coalition* that possible harms were insufficient to warrant regulation of simulated child pornography, including feeding the market for real child porn, encouraging pedophiles, and using the images to acclimate child victims of sexual abuse.<sup>88</sup> Later, in 2008, the Court found that the pandering or solicitation (but not production or possession) of simulated child pornography can be regulated, but only when the material is promoted as authentic child pornography.<sup>89</sup>

Sexually explicit speech is also regulated on broadcast television and radio. In 1978, the Supreme Court held in *FCC v. Pacifica Foundation* that the nature of these media allowed the government to regulate offensive and indecent material transmitted over the airwaves.<sup>90</sup> The Court stated, “Broadcast media have established a uniquely pervasive presence in the lives of all Americans.”<sup>91</sup> Because of this pervasiveness, “patently offensive, indecent material presented over the airwaves confronts the citizen, not only in public, but also in the privacy of the home, where the individual’s right to be left alone plainly outweighs the First Amendment rights of an intruder.”<sup>92</sup> Second, “broadcasting is uniquely accessible to children, even those too young to read.”<sup>93</sup> Third, “because the broadcast audience is constantly tuning in and out, prior warnings cannot completely protect the listener or viewer from unexpected program content.”<sup>94</sup> The government’s ability to prohibit explicit speech in broadcast media was reaffirmed in 2009 in *FCC v. Fox Television Stations, Inc.*<sup>95</sup> In *Fox*, the Court upheld the decision of the Federal Communications Commission to prohibit even

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86. *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 239–40 (2002).

87. *Ashcroft v. Free Speech Coalition*, 246.

88. *Ashcroft v. Free Speech Coalition*, 253–54.

89. *United States v. Williams*, 128 S. Ct. 1830, 1844–45 (2008).

90. *FCC v. Pacifica Foundation*, 438 U.S. 726, 748.

91. *FCC v. Pacifica Foundation*, 748.

92. *FCC v. Pacifica Foundation*, 748, citing *Rowan v. United States Post Office Department*.

93. *FCC v. Pacifica Foundation*, 749.

94. *FCC v. Pacifica Foundation*, 748.

95. *FCC v. Fox Television Stations, Inc.*, 129 S. Ct. 1800 (2009).



isolated or fleeting sexual or excretory references. The Court, however, has expressly refused to extend the broadcast rules to the Internet.<sup>96</sup>

Finally, the Supreme Court has recognized that some speech in the real world may be protected as used by adults but may be regulated with respect to exposure to minors, defined as anyone under age seventeen.<sup>97</sup> In 1957, the Court held in *Butler v. Michigan* that adults should not be reduced to reading “only what is fit for children,”<sup>98</sup> although the government can, under *Ginsberg v. New York* (1968), prohibit the sale in the real world of harmful sexual material to minors even if the material does not qualify as obscene.<sup>99</sup>

Nonetheless, translating the rule of *Ginsberg* to the Internet has proved futile to date. The seller in a hard-copy sale can be held responsible to assess the age of the purchaser. The online seller does not see the purchaser.<sup>100</sup> Although some pornographic websites voluntarily require the input of a credit card number for the purpose of limiting the site to adults,<sup>101</sup> this is unworkable because a minor may easily use an adult’s credit card, and many adults object to submitting credit card information online. Nonetheless, given that this seemed like the best approach at the time, Congress passed the Communications Decency Act (CDA) in 1996,<sup>102</sup> a law that mandated that all sexually explicit websites require the input of a credit card or equivalent age-linked identification prior to viewing.

The CDA sought to protect minors from harmful material on the Internet by prohibiting “knowingly” sending or displaying to a minor any message “that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs.”<sup>103</sup> These provisions were challenged under the First Amendment and the Supreme Court found that the CDA violated the First Amendment.<sup>104</sup> The statute was particularly poorly drafted, and the Court reasoned, correctly, that the terms of the CDA were overbroad, vague, and that “governmental interest in protecting children from harmful

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96. *Reno v. ACLU*, 521 U.S. 844, 845 (1997).

97. *Ginsberg v. New York*, 390 U.S. 629 (1968).

98. *Butler v. State of Michigan*, 352 U.S. 380, 383 (1957).

99. *Ginsberg v. New York*, 634.

100. *ACLU v. Reno*, 217 F.3d 162, 176 (3rd Cir. 2000), noting that Web publishers have no control over who accesses their materials.

101. Congressional Internet Caucus Advisory Committee, *COPA Commission: Information and Resources About the Commission on Online Child Protection (COPA)*, “Age Verification Systems,” <http://www.copacommission.org/report/ageverification.shtml> (accessed August 5, 2009).

102. 47 U.S.C. § 223(e)(5)(b) (2000).

103. 47 U.S.C. § 223(d).

104. *Reno v. ACLU*, 521 U.S. 844 (1997).

materials . . . does not justify an unnecessarily broad suppression of speech addressed to adults.”<sup>105</sup>

Congress took another stab at regulating indecent speech on the Internet with the Child Online Protection Act (COPA) in 1998. Trying to correct for the CDA’s failures, COPA prohibited Web publishers with “commercial purposes” from knowingly making available on the Web material “harmful to minors.”<sup>106</sup> Congress intended COPA to cover adult material that does not qualify as harmful for adults under the narrowly applied definition of “obscenity” from *Miller* but that would meet the *Miller* standards as applied to children. COPA had a long and sordid affair with the court system,<sup>107</sup> but after ten years and three trips to the Supreme Court, the Court denied *certiorari*<sup>108</sup> to reconsider the Third Circuit’s 2008 opinion finding COPA unconstitutional.<sup>109</sup>

In its last opinion on the statute, the Supreme Court remanded the case to the trial court to make factual determinations relevant to the question of whether in-box filters were a less restrictive, effective alternative to legislation.<sup>110</sup> The District Court for the Eastern District of Pennsylvania appointed experts and, based on their reports, issued factual findings, holding that, notwithstanding government’s “compelling interest of protecting minors,”<sup>111</sup> filters “are at least as effective, and in fact, are more effective than COPA” in protecting children from sexually explicit material on the Web.<sup>112</sup> The district court also held that COPA was “not narrowly

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105. *Reno v. ACLU*, 875.

106. COPA, 47 U.S.C. § 231(a)(1) (2000).

107. For a detailed summary of COPA’s history in the court, see *ACLU v. Mukasey*, 534 F.3d 181, 184–86 (3rd Cir. 2008).

108. “Certiorari” means “[a]n extraordinary writ issued by an appellate court, at its discretion, directing a lower court to deliver the record in the case for review.” *Black’s Law Dictionary* (8th ed. 2004). The United States Supreme Court has almost complete discretion on whether to accept a case on appeal by granting a writ of *certiorari*. The Supreme Court has resources to review on appeal only a small fraction of cases and tends to limit its review to cases raising unsettled issues of serious importance, for example *Haywood v. Drown*, 129 S. Ct. 2108, 2113 (2009), or issues subject to inconsistent opinions among federal Courts of Appeal, for example, *Rhines v. Weber*, 544 U.S. 269, 273 (2005).

109. *Mukasey v. ACLU*, 129 S. Ct. 1032 (2009).

110. *Ashcroft v. ACLU*, 542 U.S. 656 (2004).

111. *ACLU v. Gonzales*, 775, 776.

112. *ACLU v. Gonzales*, 815. The district court stated that “filters block sexually explicit foreign material on the Web, parents can customize filter settings depending on the ages of their children and what type of content they find objectionable, and filters are fairly easy to install and use.”

tailored,” was “unconstitutionally vague,” and was also “unconstitutionally overbroad” as written.<sup>113</sup>

On appeal in *ACLU v. Mukasey*, the Third Circuit affirmed. Again, the court relied on the claims that filtering technology can block foreign content immune from COPA, is more flexible than COPA, and is highly effective in preventing minors from accessing sexually explicit material on the Web.<sup>114</sup> Additionally, the court found that filters are “less restrictive than COPA” because they “impose selective restrictions on speech at the receiving end, not universal restrictions at the source.”<sup>115</sup> The Supreme Court’s denial of *certiorari* laid COPA to rest forever, although most experts have now concluded, with the advent of proxy sites, that in-box filters are not effective. For example, Internet Safety Technical Task Force, found in 2008:

Filtering and monitoring technologies are . . . subject to circumvention by minors—especially older minors—who are often more computer literate than their parents and who access the Internet increasingly from multiple devices and venues. . . . Increasingly, minors are also learning how to use proxies to circumvent filters or to reformat their computers to remove parental controls. Home filters also cannot protect at-risk minors who live in unsafe households or do not have parents who are actively involved in their lives.<sup>116</sup>

Notwithstanding the failure of CDA and COPA, the Supreme Court has consistently reinforced the principle that the protection of children is a compelling state interest.<sup>117</sup> In some sectors, the arguments against regulating online porn center around the notion that any kid smart enough to circumvent a filter can make his or her own choices, and in any event minors are already surrounded by pornography.

But the right of the state (and parents) to limit minors’ choices is deeply embedded in constitutional law. The law holds that “infants do not have the mental capacity and discretion to protect themselves from the artful

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113. *ACLU v. Gonzales*, 775, 810–13, 816–20.

114. *ACLU v. Mukasey*, 203.

115. *ACLU v. Mukasey*, 203–204, quoting *Ashcroft v. ACLU* (2004), 667.

116. Internet Safety Technical Task Force, *Enhancing Child Safety and Online Technologies: Final Report of the Internet Safety Technical Task Force* (Cambridge, MA: Berkman Center for Internet and Society, Harvard University, 2008), 34, available at [http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/ISTTF\\_Final\\_Report.pdf](http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/ISTTF_Final_Report.pdf).

117. “No one denies that such an interest [protecting minors from exposure to commercial pornography] is ‘compelling.’” *Ashcroft v. ACLU* (2004), 683, citing *Denver Area Educational Telecommunications Consortium, Inc. v. FCC*, 518 U.S. 727, 743 (1996); *Sable Communications of California, Inc. v. FCC*, 492 U.S. 115, 126 (1989); *Ginsberg v. New York*, 639–40.

designs of adults.”<sup>118</sup> For instance, minors do not have the Second Amendment right to bear arms, and a state may require adults to carry the burden of protecting children from guns.<sup>119</sup> In Texas, a gun owner is criminally negligent “if a child gains access to a readily dischargeable firearm” and the gun owner “failed to secure the firearm.”<sup>120</sup> States also prohibit selling liquor to minors,<sup>121</sup> alcohol consumption by minors,<sup>122</sup> employing minors during school hours or in hazardous work,<sup>123</sup> providing tobacco products to minors,<sup>124</sup> permitting minors to use tobacco in a place of business,<sup>125</sup> providing certain weapons to minors,<sup>126</sup> body piercing or tattooing minors,<sup>127</sup> and entering into contracts with minors.<sup>128</sup> The Supreme Court reaffirmed that “‘there is a compelling interest in protecting the physical and psychological well-being of minors’ which extend[s] to shielding them from indecent messages that are not obscene by adult standards.”<sup>129</sup>

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118. *City of New York v. Stringfellow's of New York, Ltd.*, 253 A.D.2d 110, 684 N.Y.S.2d 544, 551 (App. Div. 1999).

119. Cal. Civ. Code § 1714.3 (West 1998); Fla. Stat. Ann. § 790.17 (West 2007); Utah Code Ann. 1953 § 76-10-509.6, 509.7 (2004).

120. Tex. Penal Code Ann. § 46.13 (Vernon 2003).

121. Cal. Bus. & Prof. Code §§ 25602.1, 25658(a) (West 2007); N.Y. Alco. Bev. Cont. Law § 65(a) (McKinney 2000); Utah Code Ann. 1953 § 32A-12-203 (West 2004).

122. Cal. Bus. & Prof. Code § 25658(d) (West 2007); Fla. Stat. Ann. § 768.125 (West 2005); Utah Code Ann. 1953 § 32A-12-217 (West 2004).

123. Cal. Lab. Code §§ 1294.1, 1391 (West 2003); Fla. Stat. Ann. §§ 450.061, .141 (West 2003); N.Y. Lab. Law § 143 (McKinney 2003); Utah Code Ann. 1953 §§ 34-23-201, -203, & -302 (West 2004).

124. Cal. Bus. & Prof. Code § 22951 (West 2007); Cal. Health & Safety Code §§ 118950, 104350 (West 2007); Cal. Penal Code § 308(a)(1) (West 2007); N.Y. Pub. Health Law § 1399-cc (McKinney 2007); Utah Code Ann. 1953 § 76-10-104 (West 2004).

125. Cal. Penal Code § 308(a)(2)(b) (West 2007); Utah Code Ann. 1953 § 76-10-103 (West 2004).

126. Cal. Penal Code § 12072(a)(3)(A) (West 2007); N.Y. Penal Law § 265.16 (McKinney 2007); Utah Code Ann. 1953 § 76-10-509.5 (West 2004).

127. Cal. Penal Code §§ 652(a), 653 (West 1999); Fla. Stat. Ann. §§ 381.0075(7), 877.04 (West 2000); N.Y. Penal Law § 260.21 (McKinney 2000); Utah Code Ann. 1953 § 76-10-2201 (West 2007).

128. Cal. Civ. Code § 1556 (West 1982); Utah Code Ann. 1953 § 15-2-2 (West 2004).

129. *Reno v. ACLU*, 869 (quoting *Sable Communications of California, Inc. v. FCC*, 126); see also *New York v. Ferber*, 756–57, which says, “It is evident beyond the need for elaboration that a State’s interest in ‘safeguarding the physical and psychological well-being of a minor’ is ‘compelling.’ . . . Accordingly, we have sustained legislation aimed at protecting the physical and emotional well-being of



The Supreme Court has also articulated a compelling governmental interest in supporting parents' authority to raise their children in the manner they see fit.<sup>130</sup> The government acts on behalf of parents, not in place of them. "Constitutional interpretation has consistently recognized that the parents' claim to authority in their own household to direct the rearing of their children is basic in the structure of our society."<sup>131</sup> In *Prince v. Massachusetts*, the Court further added that it "is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."<sup>132</sup> The government will support parental choices that limit what may be characterized as free speech rights. For example, the state respects parents' decisions regarding placing their children in private sectarian schools rather than public schools,<sup>133</sup> placing them in schools that teach in languages other than English,<sup>134</sup> and, at times, taking them out of school altogether.<sup>135</sup> "Parents should be the ones to choose whether to expose their children to certain people or ideas."<sup>136</sup> Because the state respects parental authority, it must provide the "support of laws designed to aid [the] discharge of that responsibility."<sup>137</sup> Further, the state assists when "parental control or guidance cannot always be provided."<sup>138</sup> The government has a responsibility to act in a manner that does not impose its morality on children, but rather, that supports "the right of parents to deal with the morals of their children as they see fit."<sup>139</sup> Although some lower courts are suggesting limits on parental control over speech in some instances,<sup>140</sup>

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youth even when the laws have operated in the sensitive area of constitutionally protected rights."

130. *Ginsberg v. New York*, 639; *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944).

131. *Ginsberg v. New York*, 639.

132. *Prince v. Massachusetts*, 166.

133. *Pierce v. Society of the Sisters of the Holy Names*, 268 U.S. 510 (1925).

134. *Meyer v. State of Nebraska*, 262 U.S. 390 (1923).

135. See *School Dist. of City of Grand Rapids v. Ball*, 473 U.S. 373 (1985); *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

136. *Troxel v. Granville*, 530 U.S. 57, 63 (2000), quoting *In re Custody of Smith*, 969 P.2d 21, 31 (Wash. 1998).

137. *Ginsberg v. New York*, 639.

138. *Ginsberg v. New York*, 640, quoting *People v. Kahan*, 206 N.E.2d 333, 334 (Fuld, J., concurring).

139. *Ginsberg v. New York*, 639–40 n. 7, quoting Louis Henkin, "Morals and the Constitution: The Sin of Obscenity," *Columbia Law Review* 63, no. 3 (1963): 413 n. 68.

140. See, for example, *Brown v. Hot, Sexy and Safer Productions*, 68 F.3d 525 (1st Cir. 1995); *Interactive Digital Software v. St. Louis County*, 329 F.3d 954 (8th

the Supreme Court has held fast to parental rights, even in upholding a state statute requiring minors to have parental consent (or a judicial override in exceptional circumstances) for an abortion.<sup>141</sup> In a 2007 case, the Court again said that the constitutional rights of children in schools differ from those of adults.<sup>142</sup>

Of course, the First Amendment and the right of free expression must be given great respect by all Americans and by the courts. But it is possible to reach a solution that does not violate First Amendment principles and still provides better protection to children and supports the choice of adults who want to keep pornography out of their homes and businesses. The trail to that solution may be steeper now that both the CDA and COPA were held unconstitutional after a decade of litigation. Thus, Congress needs incentives to make further attempts in the near future to regulate pornography online. Not only has Congress been embarrassed, but much of the dicta and legal precedent set forth in the cases surrounding the CDA and COPA will make it even more difficult for a future statute to pass constitutional muster.<sup>143</sup>

However, heavy political opposition to any regulation on the Internet is more likely the cause for congressional inaction than are insurmountable legal or constitutional hurdles. First, so many entities make money directly and indirectly from the online porn industry (and other aspects of an unregulated Internet), including a broad web of powerful “legitimate” companies. It is little wonder that those who fight against online protection and accountability are well funded. Second, because the workings of the Internet are still obtuse to most Americans, techies can easily stop discussion by dropping vague allegations about how the Internet (and the innovation of future technology) would be ruined by any regulation. These claims may not be accurate, but they easily intimidate opponents and make politicians reluctant to engage in a battle that (as with most political battles) is fought with sound bites, not complex explanations.

In 2004, President Hinckley observed:

Legal restraints against deviant moral behavior are eroding under legislative enactments and court opinions. This is done in the name of

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Cir. 2003); but see *Frazier ex rel. Frazier v. Winn*, 535 F.3d 1279, 1285 (11th Cir. 2008), which states, “The State’s interest in recognizing and protecting the rights of parents on some education issues is sufficient to justify the restriction of some students’ freedom of speech.”

141. *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

142. *Morse v. Frederick*, 127 S.Ct. 2618 (2007); see also *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986).

143. Preston, “Internet and Pornography,” 101.

freedom of speech, freedom of the press, freedom of choice in so-called personal matters. But the bitter fruit of these so-called freedoms has been enslavement to debauching habits and behavior that leads only to destruction. A prophet, speaking long ago, aptly described the process when he said, "And thus the devil cheateth their souls, and leadeth them away carefully down to hell" (2 Nephi 28:21).<sup>144</sup>

The longer parents and families wait in seeking legal support, the harder it will be to reverse the inroads that pornography is making in this legal vacuum.

### OTHER LEGAL ISSUES

In addition to the First Amendment concerns, crafting a regulation of Internet content is challenging for other reasons. One difficult problem is dealing with Internet content that originates in foreign countries, presumably outside the jurisdictional reach of U.S. law enforcement and courts.<sup>145</sup> This question came up early in the COPA litigation, and the Third Circuit court ultimately found that COPA could not be considered underinclusive simply because it did not address foreign websites.<sup>146</sup> In addition, much of the harmful content is published from servers in the United States.<sup>147</sup> If the deluge of pornography served from the United States were controllable, other countries may be willing to make and enforce Internet standards for material published within their borders as well.

Another practical problem is the need to draw a line between acceptable and unacceptable content. Statutory application lines are seldom perfect, but we have enforced speech regulations around such lines before. We have a solid basis in existing statutes for wording the concept of unduly harmful material. For instance, Congress has enacted, and the courts have upheld, the definition of "Sexually Explicit Conduct" in various federal statutes, such as 42 U.S.C. § 13031(c)(5), with minimal variations.<sup>148</sup> Even the trade organization for the pornography industry cites the § 13031(c)(5)

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144. Gordon B. Hinckley, "In Opposition to Evil," *Ensign* 34 (September 2004): 3.

145. For further discussion of obtaining jurisdiction over international pornographers, see Cheryl B. Preston and Brent A. Little, "ICANN Can: Contracts and Porn Sites—Choosing 'to Play Internet Ball in American Cyberspace,'" *Pacific McGeorge Global Business and Development Law Journal* 21 (2008): 93–96, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1146646](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1146646).

146. *ACLU v. Mukasey*, 194–95.

147. See note 3.

148. See, for example, 18 U.S.C. § 2256(2)(A) (2000); 15 U.S.C. § 7704(d) (2000); 18 U.S.C. § 3509(a)(9) (2000).

definition in describing what images it will not include in advertisements submitted for its newsletter.<sup>149</sup> We also have a solid Supreme Court track record of applying such definitions. The Court has consistently upheld the *Miller* definition despite the same kinds of objections about drawing a line on “obscenity.”<sup>150</sup>

Of particular interest is the treatment of the definition in the COPA litigation. The COPA definition is the classic three-prong test adopted by the Supreme Court in *Miller v. California*,<sup>151</sup> but it asks an adult juror to determine what is prurient, offensive, or of overriding worth with respect to a minor rather than an adult.<sup>152</sup> It relies on a local “community standard.” A similar minor-targeted version of the *Miller* definition was upheld in *Ginsberg v. New York* with respect to sales of harmful material to minors in a non-Internet context.<sup>153</sup> Moreover, on the first appeal of COPA to the Supreme Court, the Court upheld COPA’s definition against a challenge that a community standard test was unworkable in the Internet context.<sup>154</sup>

Also informative is that, on remand from a second Supreme Court appeal, the Eastern District of Pennsylvania easily recognized what content fits the COPA definition. In *ACLU v. Gonzales*, the court freely uses the term “sexually explicit,” as well as “adult” and sometimes “harmful to minors,” to describe the material covered by COPA’s definition.<sup>155</sup> The *Gonzales* Findings of Fact, Section E, is titled, “Sexually Explicit Materials Available on the Web.”<sup>156</sup> In that section alone, the opinion identifies, classifies, and categorizes “sexually explicit,” “material,” “Web pages,” and “sites” dozens of times.<sup>157</sup> The court summarizes the court-appointed experts’ reports filed in the case in terms of separately identifiable “sexually explicit” or “adult” material.<sup>158</sup>

The Findings of Fact were used by the court as reliable evidence of the reach and applicability of COPA. Thus, this opinion, as well as the expert reports relied upon, stands or falls on the ability of the court and the experts to “know it when [they] see it” and wrap it up in the phrase “sexually

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149. Xbiz, “Print Campaigns,” <http://mediakit.xbiz.com/print.htm> (accessed January 24, 2008).

150. *Miller v. California*, 15.

151. *Miller v. California*, 15.

152. 47 U.S.C. § 231(e)(6) (1998).

153. *Ginsberg v. New York*, 638.

154. *Ashcroft v. ACLU*, 535 U.S. 564, 582 (2002).

155. See, for example, *ACLU v. Gonzales*, 777, 785, 788 *et seq.*

156. *ACLU v. Gonzales*, 788.

157. *ACLU v. Gonzales*, 789.

158. See, for example, *ACLU v. Gonzales*, 797.



explicit,” a phrase repeatedly used in federal law.<sup>159</sup> The experts must have believed that the COPA definitions are easily identifiable and thus legitimately the basis for the precise numerical studies accepted by the court.

Although the *Gonzales* court was truly hostile to COPA, the opinion proves that even critics can understand and apply the COPA definition of “Harmful to Minors.” The *Gonzales* opinion also shows that jurors and Web publishers can be expected to understand what a definition of “Harmful to Minors” means.

## WHAT WE CAN DO

At this point in the campaign, many feel like the armies of Israel—“dismayed, and greatly afraid” (1 Sam. 17:11). However, we are not defenseless in our battle against pornography. We are armed with a sling and various stones in our bag (1 Sam. 17:49–50). These stones include viable and constitutional legal solutions, consumer pressure, political and social involvement, education, and personal righteousness.

## Constitutional Legislation

Although Congress’s previous attempts at legislating Internet pornography have been unsuccessful, that does not mean that any act seeking to regulate the Internet must necessarily fail. I discuss here two possible approaches—combining technology, industry, and law—that offer regulatory schemes that could withstand constitutional scrutiny.

## Zoning

Internet zoning is one example of a constitutional way to regulate Internet content. The particular zoning scheme that I refer to is called the CP80 Internet Community Ports Concept, and the proposed accompanying legislation is referred to as the Internet Community Ports Act (ICPA).<sup>160</sup>

To understand the concept of zoning, one needs at least a basic level of knowledge of how the Internet operates and, in particular, how users browse the Internet by looking at and requesting information from Web page publishers. I will attempt to give a concise technical explanation below, but for purposes of an overview explanation for those with little exposure

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159. *Jacobellis v. State of Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

160. For an in-depth discussion of this zoning concept and its constitutionality, see Cheryl B. Preston, “Zoning the Internet: A New Approach to Protecting Children Online,” *Brigham Young University Law Review*, 2007, no. 6: 1417 available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1147163](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1147163).

to the mechanics of the Internet, perhaps the simplest (although technically flawed and imprecise) analogy is to cable television channels. If Internet content were organized into channels, a parent could choose to block access to Internet pornography just as easily as he or she blocks unwanted cable-television channels—by simply calling his or her cable provider and requesting that the unwanted channel be shut off from the digital feed to his or her receiver.

Over sixty-five thousand ports or channels for the transmission of information currently exist in cyberspace.<sup>161</sup> Most traffic now travels over ten to twenty of these ports. The default, or primary, range includes port 80, over which the vast majority of current Web traffic passes, and port 25, over which most email traffic currently passes. The government and military use a range of secured ports, and technology experts can redirect their Internet access to another range of ports designated by numbers. However, the vast majority of these ports are unused.

The Ports Concept assumes that ranges of ports could be assigned to different purposes. One port group would be designated as the general commercial range—the Ports Concept calls this range the Community Ports. The decency standards for this range of ports would be similar to the standards now applicable in the real world for areas of public traffic, such as streets, buses, and malls. Another range of ports would be designated as Open Ports. Any legal content, including legal pornography, could be transmitted over Open Ports under the Ports Concept. Internet Service Providers (ISPs) can easily sort the two types of ports with free software.<sup>162</sup>

This proposed zoning of content regulates the means of delivery of Internet pornography by separating it at the source rather than blocking it. Thus, with Internet content zoned into different Internet ports, consumers can easily and definitively choose which channels (in this case, ports) they want to access or block through their Internet service in their home or office, just as they do with cable television. If a consumer chooses Community Ports, access to content on Open Ports is impossible, rather than subject to imperfect computer-installed filters, which users can hack past, circumvent, or disable, and which must be regularly updated and monitored. Furthermore, this approach resolves potential First Amendment concerns by allowing Internet users to select content at the receiving end while not criminalizing speech at the source.<sup>163</sup>

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161. See CP80, "Solutions: Technology," [www.cp80.org/solutions/technology](http://www.cp80.org/solutions/technology) (accessed August 1, 2009).

162. Preston, "Family Friendly Internet," 1476–77.

163. Preston, "Family Friendly Internet," 1476–77.

I discuss at length elsewhere the constitutional implications of an ICPA-based regulation.<sup>164</sup> In summary, ICPA provides a legally viable option because (1) the government has compelling interests in protecting children from harmful material, protecting parents' rights to decide what their children access, and protecting the privacy of those who own real property and wish to exclude some forms of speech; and (2) ICPA is narrowly tailored to achieve those compelling interests because there are no restraints made prior to the speech taking place, it is an opt-in choice for consumers, and ICPA leaves more than reasonable alternatives for publishing adult speech.

### Electronic Labeling and Choice

Even without the enforcement power of an accompanying statute, zoning (or its equivalent) could still occur on a voluntary basis if Internet content publishers would label their sites according to the type of content contained on the Web pages.<sup>165</sup> Once sites rate their content, ISPs could provide packages to consumers based on consumer rating preferences. As with the zoning described above, this kind of content management is preferable to filters because users cannot simply circumnavigate the filter at a weak moment if the filtering is happening at the ISP level and the content is not coming into the home at all.

Industry self-regulation through labels has been suggested before. After the Senate passed the CDA, the House passed the Internet Freedom and Family Empowerment Act,<sup>166</sup> suggesting website labels as an alternative. Shortly thereafter, the World Wide Web Consortium, an international policy group,<sup>167</sup> announced the release of Platform for Internet Content Selection (PICS).<sup>168</sup> PICS provided an infrastructure for content labeling that was intended to permit self-regulation. With PICS, a simple software code was invisibly embedded in content served on the Web. The coded

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164. Preston, "Zoning the Internet," 1436–58.

165. For a more in-depth discussion of the PICS labeling concept, see Preston, "Internet and Pornography," 77–82.

166. H.R. 1978, 104th Cong. (1995).

167. The World Wide Web Consortium, or W3C, was formed to coordinate work with various international organizations and to provide "a vendor-neutral forum for the creation of Web standards." World Wide Web Consortium, "Facts About W3C," <http://www.w3.org/Consortium/facts> (accessed August 1, 2009).

168. See Todd Copilevitz, "Software to Let Users Screen Internet: Consortium to Announce System for Parents, Others to Create Own Ratings," *Dallas Morning News*, home final edition, September 9, 1995, 1A.

“tags” would identify a range of characteristics of the content.<sup>169</sup> Internet users could then program individual browsers or filters to block certain categories of content.

Representative Anna Eshoo (D-Calif.) proposed improvements to the CDA in the form of the Online Parental Control Act shortly after the PICS technology was finished.<sup>170</sup> Her bill substituted “harmful to minors” for the “decency” language in the CDA and specifically mentioned PICS as a mechanism that would allow the enforcement of the “harmful to minors” standard.<sup>171</sup> At the time of Eshoo’s bill, however, the original CDA was “on the fast track to a Supreme Court challenge.”<sup>172</sup> Members of Congress had little interest in revisiting the issue.

In *Reno v. ACLU*, when the Supreme Court rejected the CDA, Justice Sandra Day O’Connor, joined by Justice William Rehnquist, seemed to encourage the further development and use of PICS in the United States. She described such a technology:

Gateway technology is not ubiquitous in cyberspace, and because without it “there is no means of age verification,” cyberspace still remains largely unzoned—and unzoneable. . . . User-based zoning is also in its infancy. For it to be effective, (i) an agreed-upon code (or “tag”) would have to exist; (ii) screening software or browsers with screening capabilities would have to be able to recognize the “tag”; and (iii) those programs would have to be widely available—and widely used—by Internet users.<sup>173</sup>

But she regretted that “at present, none of these conditions is true.” Although acknowledging that the CDA and the Internet had to be evaluated as they were presented to the Court, she stated encouragingly that “the prospects for the eventual zoning of the Internet appear promising.”<sup>174</sup>

In July 1997, President Bill Clinton brought executives from high-tech groups together to discuss new methods of resolving the issue of material that was harmful to minors.<sup>175</sup> Reportedly, Clinton, along with members

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169. See Paul Resnick and James Miller, “PICS: Internet Access Controls Without Censorship,” *Communications of the ACM* 39, no. 10 (1996): 87, available at <http://www.w3.org/PICS/iacwcv2.htm>.

170. David Plotnikoff, “Eshoo Unveils Net Law,” *San Jose Mercury News*, March 15, 1996, 1C. See also Notebook, *Communications Daily* 16, no. 52 (March 15, 1996), 8 (regarding the introduction of legislation by “Rep. Eshoo (D-Cal) and 4 co-sponsors”).

171. Plotnikoff, “Eshoo Unveils Net Law,” 1C.

172. Plotnikoff, “Eshoo Unveils Net Law,” 1C.

173. *Reno v. ACLU*, 891.

174. *Reno v. ACLU*, 891.

175. Louise Kehoe, “Clinton Acts to Protect Cyber-Kids,” *Financial Times* (UK), USA edition, July 17, 1997, 6; see also Joel Kirkland, “Software Giants

of the industry, coalesced around the idea of a Web rating system based on PICS software similar to the United Kingdom's RSACi.<sup>176</sup> Those involved claimed agreement to a commitment to "mak[e] the Internet 'family-friendly' without government regulation" by "giving parents a 'virtual toolbox' filled with already existing filtering technology bolstered by law enforcement."<sup>177</sup> Many commercial interests, especially the major news agencies, were opposed to this type of regulation.<sup>178</sup>

For a while, the ICRA/PICS approach generated some enthusiasm. But in 2006, operators of commercial sites with sexually explicit material attacked a proposed amendment to a telecom reform bill that required some form of mandatory labeling of adult websites.<sup>179</sup> While the Association of Sites Advocating Child Protection (ASACP), whose members include Playboy.com, Hustler.com, and other smaller adult websites, claimed to support voluntary self-regulation based on labeling, no serious effort to adopt labeling has surfaced.

I point out these approaches—zoning and labeling—to illustrate that legal solutions within constitutional mandates are possible. I do not suggest that either are perfect solutions or that they easily resolve all practical complexities. A workable solution may take some creativity and innovation, both in terms of technological application and legal structure. But dialogue about how to address the problem should not be abandoned because of any notion that it is not possible to satisfy the First Amendment. The current cause of inaction is not primarily legal, but political. American parents, foundations for the protection of children, and primary educators are not creating the political pressure necessary to motivate legislators to stand up to the well-funded lobbyists representing pornography suppliers

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Seeking Way to Filter Web Smut," *Chicago Tribune*, north sports final edition, July 17, 1997, 8.

176. Kehoe, "Clinton Acts to Protect Cyber-Kids." The approach that the Clinton administration seemed to favor at the time was like that of the prevailing rating system for television programs.

177. Julie Hirschfeld, "Consensus Announced to Make Web Child-Safe," *Dallas Morning News*, home final edition, July 17, 1997, 2D.

178. Amy Harmon, "Some News Organizations Take Umbrage at Rating Their On-Line Sites," *New York Times*, late edition (East Coast), September 1, 1997, D3.

179. "Mandatory Web Labeling Called 'Recipe for Self-Censorship,'" *Washington Internet Daily*, July 3, 2006. During this same time others introduced similar legislation, such as one requiring members of the House and Congress label their websites consistently with ICRA. See "SRES184: CRS Bill Digest for SRES184," *CRS Bill Digest*, November 30, 2006, available at 2006 WLNR 20986652; "HRES430: CRS Bill Digest for HRES430," *CRS Bill Digest*, November 30, 2006, available at 2006 WLNR 20918793.



and investors, who aim to ensure future profits without serious obligations to conform or risk liability. Moreover, many child-focused groups, similar to most politicians, are still not well enough informed and tech savvy to challenge the claims of technological impossibility, no matter how poorly founded.

As we build up enough unified political pressure, other options for more quickly taking action are available. Of course, we need to examine our own relationship with Internet temptation and we need to support others in seeking and providing addiction recovery help. We must be vigilant in training and supervising our own children and grandchildren. In addition to these actions, public-minded individuals can help with the effort to reach a preventive solution.

### BECOME INVOLVED

Do not let pornography's apparent stronghold on our society deter you. You may be surprised at what a big difference a few people can make in the political process or the commercial landscape. "Wherefore, be not weary in well-doing, for ye are laying the foundation of a great work. And out of small things proceedeth that which is great. Behold, the Lord requireth the heart and a willing mind" (D&C 64:33–34). Even in the 1970s, President Kimball encouraged the Saints to become involved: "Members of the Church everywhere are urged to not only resist the widespread plague of pornography, but as citizens to become actively and relentlessly engaged in the fight against this insidious enemy of humanity around the world."<sup>180</sup> Lawyers and nonlawyers alike have powerful tools to address this social problem, even without legislation. For instance, we as paying consumers can insist on more choices in how we use the Internet. We can send a clear message to service providers, Web businesses, advertisers, and other companies that we will, to the greatest extent possible, spend our consumer dollar to support only businesses that do not capitalize on pornography. We can become better educated about technology and how it works, about the political and legal process, and about the economic forces behind the pornography production and delivery industries. We can remind our elected representatives that we are still expecting efforts to reach legislative solutions to protect children and give adults effective options to keep offensive material out.

"Lawmaking bodies will listen to effectively organized citizens. However, too often the trend is tragically toward citizen apathy and a sense of

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180. Kimball, "Report and a Challenge," 5.

futility.”<sup>181</sup> Do not assume that you are in the minority with your views. There are thousands of parents and concerned citizens, many of whom are not LDS, who also feel that pornography is a destructive force. President Gordon B. Hinckley warned of the danger of giving in to a vocal minority:

I am not one to advocate shouting defiantly or shaking fists and issuing threats in the faces of legislators. But I am one who believes that we should earnestly and sincerely and positively express our convictions to those given the heavy responsibility of making and enforcing our laws. The sad fact is that the minority who call for greater liberalization, who peddle and devour pornography, who encourage and feed on licentious display make their voices heard until those in our legislatures may come to believe that what they say represents the will of the majority. We are not likely to get that which we do not speak up for.<sup>182</sup>

As the amount of pornography is expanding exponentially, it is also becoming increasingly accessible, affordable, and acceptable. An industry that was once relegated to dark corners and shadowy streets now is a click away on the Internet. The battle to get recognition of its harmful effects and to insist on some legal protection is going on right now, and the Lord needs his Saints to fight it. “Discipleship is not a spectator sport.”<sup>183</sup>

Purveyors of pornography seek to legitimize their trade as freedom of expression under the First Amendment. To a large extent they have been successful in their attempts, to the point that images of child sexual abuse, so long as it is produced without the involvement of a real child, is material that adults have a constitutional right to make and consume.<sup>184</sup> However, relevant legal precedent and compelling government interests may be harnessed, and a constitutional solution is not impossible. While Congress’s attempts at regulation have thus far been unsuccessful, there are promising legal avenues remaining, as well as important actions that can be taken by individuals. Strategies such as zoning the Internet or requiring publishers to label online content could produce effective results without running afoul of the First Amendment. Writing to and encouraging local legislators will facilitate the development of solutions. In the meantime, we must also educate ourselves and our children about the evils of pornography, learn how

181. David B. Haight, “Personal Morality,” *Ensign* 14 (November 1984): 71.

182. Hinckley, “In Opposition to Evil,” 5. See also Neal A. Maxwell, “Meeting the Challenges of Today,” in *1978 Devotional Speeches of the Year* (Provo, Utah: Brigham Young University Press, 1979), 151, who said, “We will know the joy, on occasion, of having awakened a slumbering majority of the decent people of all races and creeds—a majority which was, till then, unconscious of itself.”

183. Dieter F. Uchtdorf, “The Way of the Disciple,” *Ensign* 39 (May 2009): 77.

184. *Ashcroft v. Free Speech Coalition*, 251.

to keep pornography out of our homes and lives, and encourage others to do the same.

Fortunately, along with the warnings of the prophets come messages of encouragement and promises of success. Although “the moral footings of society continue to slip”<sup>185</sup> and those who safeguard those footings often suffer persecution, the Lord has commanded us, “Be of good cheer, and do not fear, for I the Lord am with you, and will stand by you” (D&C 68:6). We are assured that making “the gospel of Jesus Christ the center of [our] lives . . . will not remove our troubles from us but rather will enable us to face our challenges, to meet them head on, and to emerge victorious.”<sup>186</sup>

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185. Thomas S. Monson, “Be of Good Cheer,” *Ensign* 39 (May 2009): 89.

186. Monson, “Be of Good Cheer,” 89.

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## Sorting, In Evening Light

I attach a place and season  
to the magazine photo of a man with gray,  
stubbled face, saved with clippings of others:  
old milk cans and barns in contrast  
with the space-age classic of earth  
that day man stepped on the moon  
and looked back.

For a time I leave off lamps,  
let dusk settle over the whiskered face  
like a faint texture of suede  
in old family albums.  
His hat has been battered  
by sun and rainy weather.  
Great-grandfather had the same skin—  
once browned, later soft,  
almost transparent. He often hummed  
when I was in the room, almost never spoke.

I've made assumptions  
about the man in the photo.  
He was always poor, but  
has no debt. He's not traveled  
many miles from home . . . has no home  
any longer. If he notices this,  
his eyes don't tell.  
They are amber and like a dance  
caught on film as they look out  
over harvested fields bright as the moon.

No such scenery is in the photograph . . .  
only the hat, the face with faint beard,  
and at a lower corner the long-fingered hands  
where they rest on a plain wood cane  
and do not tremble.

—Dixie Partridge

# On Music Angels

## God Only Knows

*David Milo Kirkham*

### **Yester-Me, Yester-You, Yesterday**

The trek from my office at the Air Force Academy history department to the faculty parking lot was long enough—about a ten-minute walk—sufficient time for some substantive thinking. One winter evening in about 1992, as I made the walk, my Comparative Revolutions course weighed on my mind. As I pondered how I might introduce the next day's discussion on causes of revolutions, I climbed into my 1987 red Dodge Colt more out of habit than deliberation. At the turn of the ignition key, the radio's boom broke my reverie and jarred me back to the reality of my immediate surroundings.

"Where did it go, that yester-glow, . . . yester-me, yester-you," rang out the soulful tenor voice of Stevie Wonder from Colorado Springs' sole oldies station. *A decent song*, I thought, ready for a musical interlude to my heavy thinking, *but I wonder what's on the other stations*.

My fingers instinctively hit the button for the only other accessible oldies station, from Pueblo, Colorado, fifty-seven miles to the south. Reception of Pueblo's station wasn't always very good at my house in the Springs, but sometimes I could pick it up while perched on the mountainside where the Academy was located. That night, in fact, I was in luck. The music came in softly but clearly: "Yester-Me, Yester-You, Yesterday." Stevie Wonder.

*That's odd*, I thought. *The same more-than-twenty-year-old song playing at the same time on two different stations in two different towns. What are the chances?*

\* \* \*



A friend recently asked me to prepare some thoughts on the ethics of torture (or “enhanced interrogation techniques”) from a “Mormon perspective.” On another occasion I was asked to write an article about LDS perspectives on conscientious objection. Although I am happy to comply with such requests, looking at some topics, especially publicly, from the perspective of a member of The Church of Jesus Christ of Latter-day Saints, poses challenges. For one, I’m a lay member, not a presiding authority. I can’t and don’t want to speak for the Church. I further have to wonder on such occasions how much of what I have to say is really from a Mormon perspective and how much is just me. Even some spiritual matters, I find, are better approached from a personal perspective than from the perspective of an adherent to my religion.

It’s not that my experience with spiritual things contradicts the teachings and doctrines of the LDS Church. Quite to the contrary, really. In the great majority of cases, experience reinforces my formal convictions. On the rare occasions when it doesn’t reinforce them, it doesn’t undermine them either. On some questions, the Church simply offers a figurative “no comment.” Despite the tight discipline under which most people think Mormons live, Church authorities are mercifully silent on much that we encounter, even some things bordering on the mystical. They provide general guidelines, teach correct principles, then, to my pleasure, leave me to figure out much on my own while governing myself.

In the end, all things are spiritual and I like the challenge of looking at the “unobviously religious” at least from a spiritual if not a strictly LDS perspective. It doesn’t always have to be headline grabbing things like torture or conscientious objection, however. It can be something seemingly small like, say, “music angels.”

## **Cherish**

One afternoon in the early 1990s, driving through heavy traffic on Denver’s I-25, I turned on the radio looking for some calming music. My preferred station was playing a commercial. *I could use a good love song*, I thought. *What’s a favorite love song?* “Cherish,” by the Association, came to mind. *Great lyrics, great harmonies, unique arrangement. It’s a great song.* 1966. (I like to pin the year of a song to my pop music ruminations—it’s a game.)

The commercial ended. The music began. Bom, bom. Bom, bomp-ba-bom. “Cherish is the word I use to describe . . .”

The coincidence startled me and awakened my sense of wonder. *Now how did this happen?* What are the chances that the station would play

the very song I was thinking about, especially when the song is twenty-five years old? Instead of just laughing and shuffling it off into the “hey, weeeird” category of my life, I pondered the question for a minute or so. My internal debate went something like this:

“Well, David, as unlikely as it seems, it’s probably just coincidence. Recall all the times you might have been thinking of a song that didn’t come on the radio. It’s bound to happen once in a while that they play what you’re thinking.”

“Actually, I don’t know that I am thinking of particular songs all that often when I turn on the radio,” I replied.

“Yes, but ‘Cherish’ was actually a pretty big song in 1966. It’s not like you chose some obscure piece by the New Vaudeville Band.”

“I’m not sure I ‘chose’ anything,” I answered. “And I can probably count on one hand the number of times I’ve heard ‘Cherish’ on the radio over the past five years, despite its original popularity.”

I tossed around another possibility or two. It is not beyond belief for me that human brainwaves can pick up radio signals under certain circumstances, for instance, maybe even shortly before they are picked up by man-made receivers. I don’t know the science on that, but it was at least one theory I entertained about my entertainment. Still, in the end, I dropped the thought. I had no satisfactory answers, the question overall seemed trivial, and I needed my brain for better purposes, if only to navigate the traffic on I-25.

### **More Than Words**

The room was a dull gray, the walls and floor bare. It was in good enough repair, but bleak nonetheless. I had a bed, sheets, a pillow, blankets, and what I had brought in my suitcase. It could have been a cell, but it was a dorm room in 1991 at Philadelphia’s Temple University, where I was attending the annual conference of the World History Association. Other professional responsibilities had kept me away from my family for two weeks, and I was missing them. The only company I had was a couple of books and a small radio. Music, of many genres—pop, classical, folk, oldies—has often comforted me, so I turned to the radio.

*Last summer when Judy, the kids, and I spent several weeks together at the University of Notre Dame, I thought as I leaned over to flip it on, that song “More Than Words” by Extreme was playing just about every time we turned on the radio. Not particularly a great song, but it makes me think of the family.*

I hit the switch: “If you only knew how easy it would be . . . more than words . . .” ran the two-part, high harmony vocals coming through the radio speaker. And for me it *was* more than words, more than music even. It was a tie to my family. *Was it also more than coincidence?* Although this time the song was a mere year old, not twenty-five, and much more likely to still pick up a little radio play, I took comfort in it—even this mediocre song—and it sustained me through the lonely evening.

After the Temple University conference, I flew from Philadelphia to Salt Lake City where my family was waiting. A day later we were in the car together making our way back home to Colorado over five hours of I-80 and four hours of other assorted streets and freeways. In these days before kids were each plugged into their own individualized entertainment systems, we shared the car’s common radio, with the understanding that as long as Dad was driving, he got to choose the station we listened to. I tried to be fair about my choices, but most of the time it meant, given limited selections through Wyoming and Colorado, we were going to be listening to old pop and rock songs to keep me awake. The kids didn’t seem to mind. They knew the music almost as well as I did.

As we drove, we regaled each other with stories and anecdotes about things that had occurred during our separation. As the radio passed from one oldie to the next, I told the children about the coincidence of “More Than Words” coming on as I was thinking of it and them the week before. A few minutes later, when the radio began crooning “Count Me In,” by Gary Lewis and the Playboys, my daughter Angel, then about nine years old, said:

“Hey, Dad, when you told us that story about hearing ‘More Than Words’ when you were thinking about it, I told myself I wanted to hear a song by Gary Lewis and the Playboys, and now, listen.”

We all laughed.

“But actually,” she added, “I really wanted to hear ‘This Diamond Ring.’ Still, it’s pretty neat.”

“Good job, Angel. We’ve still got the music angels working for us. You’ll get better at it in time,” I teased as the song ended and I hit the radio button in search of another station.

“This diamond ring doesn’t shine for me anymore, and this diamond ring doesn’t mean what it did before . . .” rang out Gary and his band on the new channel. For a moment we were stunned, then we laughed again.

“Hey, I want to try that!” my eleven-year-old daughter, Aimee, declared.

“Okay, what do you want to hear?” I chuckled.

“‘Surfin’ USA’ by the Beach Boys.”

It took twenty minutes: “Everybody’s gone surfin’, surfin’ USA.”

Okay, it must be more than coincidence. The brainwave theory again? A good friend of mine told me recently that one day during a rather lengthy hospital wait, he was chatting with a technician about such things. The technician said he was convinced musical “coincidences” occur because time is an illusion, that we have “heard” these songs at this particular “time” and place in some kind of other dimension. Whew. I’m not sure humans are expected to get their heads around that one, as intriguing as it sounds. Alma does say, “All is as one day with God, and time only is measured unto men” (Alma 40:8), but I’m not sure that’s what the hospital technician meant. As a family, we sort of prefer the “music angels” theory: Someone—who knows? maybe a family member who has passed on—wants in on the fun, just wants to show us love in a small way, and plays this game with us.

Of course there are problems with this fantasy, and I mull them over occasionally. When we speak of the “ministering of angels,” surely we don’t expect that they would have the time or inclination to play games with us. Or would they? When my daughter Bonnie was three, she matter-of-factly declared that sometimes Jesus would pick her up when she fell down and they would tease each other. Is it possible angels might do whatever is necessary to minister to us according to our particular circumstances? If we need a good song, could they provide it? Pondering this possibility, I realize I may be on theological thin ice and promise myself not to raise the theory in Sunday School.

### God Only Knows

On September 23, 2004, the day of my fiftieth birthday, I was living with most of my family in Garmisch-Partenkirchen, Germany. Aimee was married, and Angel and my next daughter, Brittany, were roommates attending BYU, but the rest of us had settled into a generally happy routine of school, work, and fun extracurriculars in the Bavarian Alps. Part of my routine was to get up at five, jog three miles with Judy, then settle down at my computer with a glass of juice and a couple of pieces of toast while I checked the morning news and fired off an email to the BYU girls, usually to musical accompaniment. As members of an online music subscription service, we had a wide range of choices in melodies and songs.

*It’s my birthday,* I told myself. *I think I’ll listen to some old stuff that I really like and haven’t heard for a while. How about the Beach Boys?* I played two songs and only two songs: “God Only Knows,” my favorite, and “Wouldn’t It Be Nice?” both from the *Pet Sounds* album. Meanwhile,

I noted the news then opened the email. A note waiting from Brittany and Angel indicated it was a birthday greeting. I opened it up to find a poem of sorts:

"To be sung to the tune of the Beach Boys' 'Wouldn't It Be Nice?'" read Angel's instructions, followed by a little song she and Brittany had made up, a tender and silly parody, extending to me greetings for the day and a lot of daughterly affection. I quickly fired off a note in reply:

"Hey, Angel, Britt, thank you, girls, for the tribute. I'll have you know 'Wouldn't It Be Nice?' was one of two songs I listened to on the computer this morning."

It being eight hours earlier in Utah and not too late for a college student to be up, Angel was online.

"What was the other song?" she replied moments later.

"God Only Knows."

"That's funny," she answered. "Just a few minutes ago, about when you would've been listening to that, Brittany and I were driving home from the library and 'God Only Knows' came on the radio. I told her, 'Let's leave this on and listen to it in commemoration of dear old Dad's birthday.'"

"Music angels," we agreed. And I felt loved by heaven and earth.

I don't know what else to say. I am leaning toward cosmic explanations for some of these things. But why should the cosmos care about what song is playing on the radio or on my computer? I mean, if there are music angels, wouldn't they want to elevate my taste and play me a Mormon Tabernacle Choir rendition of the "Ave Verum Corpus" or at least "The Battle Hymn of the Republic"? On the other hand, if a hair of my head shall not be lost and go uncounted, could God care to show me in a creative way how much my daughters love me, to give me these fun bonding moments with my family, and in the process be showing us his love as well?

Certainly God takes an interest in the affairs of his children: discoveries, migrations, constitutions, even revolutions. The day my contemplation of the causes of revolutions was interrupted by the simultaneous playing of "Yester-Me, Yester-You, Yesterday" on two radio stations, I basically concluded that conditions for revolutions and musical coincidences in our personal lives could easily share similar possible explanations:

They could be matters of chance. Things just happen to line up in a particular time and place, making conditions ripe for a revolution. And two station programmers might just happen to put on the same song at the same time within listening distance of each other.

They could be matters of human agency. Dissidents plan and execute the overthrow of governments. And DJs or programmers either conspire



to play the same song, share a playlist, or one hears the other's song playing and puts it on his station at the same time.

Or there are cosmic possibilities. God intervenes in the affairs of mankind. Latter-day Saints believe with Nephi that the American revolutionaries who went "out of captivity were delivered by the power of God" (1 Ne. 13:19).

Music angels might be another story. Do they exist? From my perspective, God only knows. Sometimes it's easier to grasp big things like revolutions or matters of collective conscience than small things like musical coincidences. A week after I had written a first draft of this essay, I was riding in my car with a good but not particularly pious nephew who has struggled this past year in his marriage. I said nothing to him about the ideas I had been exploring in this writing. I mostly just listened to him share some of his concerns. He explained to me that a few days earlier he had been on the brink of despair, driving in his car, deciding whether he had the courage to repair his relationship with his wife. He said he began to pray fervently, asking God if he should try to make his marriage work. When his prayer was done, he turned on the radio to find "their song" playing, his and his wife's. He decided the song was his answer: to really try again.

So *was* it his answer? I don't know. I will not say it wasn't. Certainly it seems likely he derived from it the right answer, regardless. I cannot honestly explain these phenomena. I will conclude merely on this note: If there are such things as music angels, then when I die, I want to be one, at least for a hobby or a part-time job. I may join in musical games, dream up melodic tricks to play on surviving family members and others who need to be reminded that they are loved. If I get the chance, I may play "God Only Knows" as a wistful daughter looks at a picture of us together, or, if God allows that sort of thing, play a meaningful song for a friend seeking courage to take on something important in his life. I know, it's not exactly a still small voice; it's no substitute for pure communications of the Spirit, but it may be at least a mysterious act of kindness that draws someone's eyes—and ears—heavenward. And it may be a lot of fun.

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This essay by David Milo Kirkham (who can be reached via email at [byustudies@byu.edu](mailto:byustudies@byu.edu)) won third place in the *BYU Studies* 2010 personal essay contest.



Joseph F. Merrill. Courtesy Church History Library, © Intellectual Reserve, Inc.

# Joseph F. Merrill and the 1930–1931 LDS Church Education Crisis

*Casey Paul Griffiths*

In the early 1930s, the educational system of The Church of Jesus Christ of Latter-day Saints found itself near the end of a major transformation. In the short span of only a dozen years, the Church had all but abandoned its network of loosely associated Church academies in favor of a system of less expensive released-time seminaries linked to public high schools throughout the Intermountain West. As a result, the seminary program had grown explosively, quickly becoming the dominant form of Church education. However, there was an ominous feeling of insecurity hovering over the seminary program. With nearly all of the Church academies closed or sold to the state, there was no backup if something arose that made the seminary system untenable. Further moves were being made to close or transfer the remaining schools and junior colleges. Yet the seminary program, less than twenty years old and still largely experimental, existed on uncertain legal ground. Figuratively speaking, Church education had put all its eggs in the seminary basket, hoping no new threat would arise. When such a danger did appear in 1930, the Church launched a desperate battle to save its educational program.<sup>1</sup>

## **The Setting**

In the early twentieth century, the Church began a major move away from the field of secular education. The reasons for this change were complex but can be boiled down to a few major factors. First, with the entry of Utah into the federal union in 1896, Latter-day Saints were less concerned with isolation and moved toward inclusion in American society. Instead of keeping themselves separate from American society, Church leaders

adopted a “deliberate church policy,” which Armand L. Mauss has called “conspicuously assimilationist.”<sup>2</sup> After decades of struggle with the outside world, in the early twentieth century the Saints moved to embrace it. A good measure of this assimilation may be seen in the enrollment of Latter-day Saints in Utah public schools during the early twentieth century. In a short space of time, the enrollment of the Church academies fell dramatically as attendance in the newly created public high schools

### Casey Paul Griffiths

A few years ago when I mentioned to a relative I was studying twentieth century Church history, he remarked, “Why? Nothing really happened after Brigham Young died!” While I recognize that his remark was made somewhat jokingly, it does in part reflect a tendency among Latter-day Saints to believe that the wonderful things happening in the modern Church do not measure up to miraculous events in pioneer times. When I initially began my thesis research, I chose a nineteenth-century topic but was directed by a helpful colleague toward Joseph F. Merrill and the development of Church education in the twentieth century. To my delight, I found that events in more recent history could be just as dramatic, surprising, and exciting as those from the days of Joseph Smith and Brigham Young. While I recognize that early Church history remains a fertile field (I think the recent Joseph Smith Papers project is a superb example), I hope that more prospective historians will recognize that every period of Church history is full of fascinating events. The struggles of Merrill and his contemporaries to build a system to ensure the spiritual training of LDS youth is an important part of Latter-day Saint history, one that I think shows the hand of providence in the continuing development of the Church. Assisted by many generous scholars (too many to mention here), I have experienced a wonderful journey in researching, writing, and speaking about this era in Church history.



skyrocketed.<sup>3</sup> Public high schools were embraced readily by Church members because of their cost, convenience, and availability. In contrast to the public schools, Church academies required tuition, could be established only in major population centers, and sometimes required youth to leave home during the course of the school year to attend. While their embrace of public schools was rapid, Church members retained a sense of wariness. Could the unique Mormon sense of culture be transmitted in secular public schools? How would the youth of the Church respond to immersion in a secular environment five days a week? While these questions of faith hovered, even more pressing practical concerns loomed. Could the Church continue to compete with the federally funded, ever-increasing public school system? Would the members be able to maintain a dual system, paying for both through tithing and taxes? The Latter-day Saint response to these questions is as good a case study as any to illustrate how Mormonism managed to become a part of the American mainstream while striving to transmit its unique culture, identity, and beliefs to rising generations. Fittingly, the solution to the school problem came from looking outward, not inward.

The questions associated with rising American secularism were not unique to Latter-day Saints. Leonard Arrington notes that the early twentieth century was a tumultuous time for Americans culturally, when traditional religious and societal ideals were bumping into the expanding realms of science and secularism.<sup>4</sup> In 1905, at an interfaith conference held in New York City, Dr. George U. Wenner decried the monopolization of students' time and indicated that "churches were entitled to their share of it." It was proposed that students be allowed "released time" every Wednesday afternoon so that local churches could provide religious instruction.<sup>5</sup> Those not desiring to attend church schools could continue with normal classes. Almost a decade later, in 1914, William Wirt, a school superintendant in Gary, Indiana, launched the first released-time program. During the school day, a period was set aside when students could study their own family's faith under the tutelage of an expert in the faith. Within a few years, the program had begun to spread throughout the nation.<sup>6</sup>

During this time, Joseph F. Merrill, serving as a member of the Granite Stake board of education, launched a released-time program at Granite High School in 1912.<sup>7</sup> How much Merrill was influenced by similar movements in other states cannot be determined, but it is likely that he was aware of them, having served as an educator at the University of Utah. Merrill was also a founding member of the Utah Education Association and had completed a term as its president only the year previous.<sup>8</sup> Merrill cited his wife's experience in religion classes taught by James E. Talmage



as his inspiration. Years later, Merrill's daughter said that he was inspired by religious seminaries he had seen during his doctoral course of study in Chicago.<sup>9</sup> Included in the planning of the new venture were the General Church Board of Education and the Granite school board. While Merrill did not request it, the Granite school board generously offered to provide one-half credit for each of the two courses in Bible study planned by the seminary. With the approval of the Church and the school board, the program was launched in earnest in the fall of 1912.<sup>10</sup>

Whatever inspired Merrill, the program became a rousing success and spread like wildfire throughout the Church. Merrill himself expressed surprise at its rapid growth, stating in later years that "we sometimes 'build better than we know.'"<sup>11</sup> It grew steadily during the remainder of the decade, gaining numbers and legitimacy. In January 1916, the State School Board of Utah approved a directive that allowed high schools to give up to one unit of credit for Bible history and literature, provided that the class was taught by a certified teacher and met state academic standards. By 1919, there were 13 seminaries with an enrollment of 1,528 students.<sup>12</sup> Without intending to, Merrill had found the solution to the Church's educational problem.

Under the leadership of Adam S. Bennion, the Church Superintendent of Schools from 1920 to 1928, the seminary program became the backbone



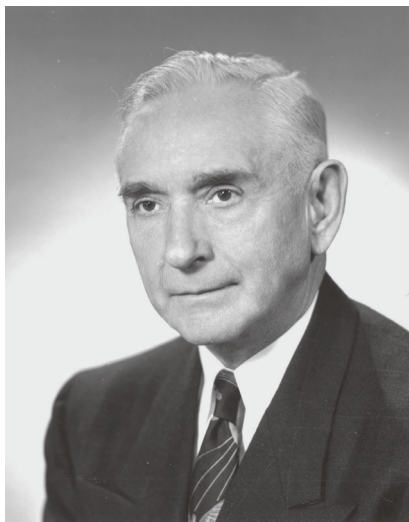
Granite Seminary was built in 1912 and stood until 1993. Courtesy Church History Library, © Intellectual Reserve, Inc.

of Church education. From 1922 to 1932, seminary enrollment rose from 4,976 to 29,427.<sup>13</sup> Why such a rapid shift? On a practical level, the Church's move to seminaries instead of academies was a matter of simple economics. For the 1924–25 school year, the cost of operating an academy was \$205 per student, compared to \$24 for a seminary student.<sup>14</sup> Closing the academies was seen as a painful but necessary step in the evolution of Church education. With the economy of the Intermountain West already struggling in the 1920s and the ugly specter of the Great Depression rearing its head by the end of the decade, the move to seminaries made good economic sense. It would widen the geographic sweep of Church education, lessen the load on Church resources, and save Church members from having to support a dual system of education.

By January 1930, the Church's withdrawal from the field of secular education was underway but not yet complete. The seminary program, which had begun experimentally, was now being touted as an alternative model for not only Church high schools but Church colleges as well. Christened "Institutes of Religion," fledgling college seminary programs were launched in Moscow, Idaho, and Logan, Utah, with encouraging results. The transfer of the remaining Church schools was still a work in progress, though a clear policy was in place and specific goals had been outlined.

When Joseph F. Merrill assumed Bennion's post in 1928, the task of transferring or closing the schools fell to him. Perhaps without knowing it, Merrill had stepped into a potentially explosive situation. Tension was high, especially in Salt Lake City, over the Church's aggressive push to start new released-time seminaries. The spark that would ultimately ignite this powder keg came from the unique set of circumstances surrounding the closure of the high school portion of LDS College in Salt Lake City.

While the seminary program spread in other areas, it met with opposition in the Salt Lake area because the local school board refused to grant either released time or credit for classes in biblical studies. From its inception, seminary curriculum had consisted of three courses—Old Testament



Adam S. Bennion. Courtesy Church History Library, © Intellectual Reserve, Inc.



LDS College in Salt Lake City. This photograph was taken after LDS Business College occupied the building. Courtesy Church History Library, © Intellectual Reserve, Inc.



and New Testament, for which credit was granted, and Church History, for which no credit was granted. As a result, in the area immediately surrounding Church headquarters, students could take seminary only before or after regular school hours. Partly because of this restriction, seminary enrollment in Salt Lake remained at about 10 percent of the LDS population compared to 70 percent in other areas.<sup>15</sup> Having such a low attendance rate in the heart of Mormonism, where many of its leaders and their families resided, was not only potentially embarrassing for the Church but also placed local youth in a situation where they were not receiving daily religious education.



David O. McKay. Courtesy Church History Library, © Intellectual Reserve, Inc.

Even before the closure of the Church schools, some Church educators believed that conflict over the seminary system was inevitable. Lowry Nelson, a professor at BYU, wrote privately that the seminaries were “destined sooner or later to stir up widespread animosity between the church and other churches. Not a very considerate gesture on our part to fasten them on to the secular system of education, just because we happen to be in the majority.”<sup>16</sup> At the time, the seminary system was less than twenty years old, had little legal precedent, and was thought by some to be a foolhardy investment on the part of the Church. Others felt that the Church might have moved too rapidly in closing the academies in favor of the seminary system. At a meeting of the Church Board of Education in 1926, David O. McKay had stated, “I think the intimation that we ought to abandon our present Church Schools and go into the seminary business exclusively is not only premature but dangerous. The seminary has not been tested yet but the Church schools have. . . . Let us hold our seminaries but do not do away with our Church schools.”<sup>17</sup> McKay was right. No legal precedent existed for the seminary system. In spite of the blessing of the local school boards and the state board, there existed little legal precedent for the practice.

Merrill recognized the tension surrounding the relationships of seminaries and schools and did not want to give the impression that the Church

was seeking anything beyond what he felt were its legal rights. In his first address as commissioner, he explained:

You understand of course that in all of our system of education we are not trying to get into, we are not trying to dominate, we are not trying to influence improperly, we are not trying to interfere in any way with the public school system of education. All that we are asking is that the members of the Church may voluntarily go during school hours into our buildings, and our own property, and receive religious education.<sup>18</sup>

The last thing Church leaders wanted was a confrontation over the seminary system. With the divestiture of Church schools already in progress, the continued operation of the seminaries was crucial to the success of Church education. The worsening economic situation made seminaries more desirable. The Church had reached a point of no return, where any move to re-establish the academy system might not have been possible. A confrontation was about to be thrust upon them, however, and Joseph F. Merrill would have to take the lead in defending the legality of the seminary system.

### **The 1930 Williamson Report**

While all of these pieces were being moved into place, Isaac L. Williamson, the state high school inspector, issued a report to the state school board on January 7, 1930.<sup>19</sup> The report was a scathing critique of the relationship between Utah high schools and seminaries. At the time, there were few indications that the attack was coming. Merrill had tried to meet with Williamson's committee before it made its report to the state board but had been refused permission.<sup>20</sup> Church leaders, Merrill included, found themselves blindsided by the report and quickly organized themselves to issue a response.

Criticism from a man with Williamson's credentials presented a cause for serious alarm. Williamson, a non-Mormon, was also somewhat of an outsider to Utah politics. A former superintendent of schools in Wakita, Oklahoma, he had completed postgraduate work at Harvard University before being brought to Utah to serve as principal of Tintic High School in 1912.<sup>21</sup> He was chosen as the first superintendent of the Tintic School District in 1915.<sup>22</sup> Both posts were located in Eureka, Utah, a town nestled in the mining district of central Utah and one of the few areas of rural Utah without a dominant Latter-day Saint population. Appointed as the state high school inspector in 1923, Williamson's seven prior years of service as the state inspector gave little indication of any grudges against the seminary program. The only entries in the minutes of the state board included a thorough evaluation of a Catholic school in 1926<sup>23</sup> and a minor complaint



of seminary classes being held in public high schools in some rural schools.<sup>24</sup> Ironically, a new LDS seminary was announced in Williamson's home district of Tintic only two weeks earlier.<sup>25</sup> Williamson proved to be a formidable and tenacious critic during the ensuing months.

The full text of the report was issued in the *Salt Lake Tribune* on January 9, 1930. Williamson attacked the seminary program, stating his concerns in three areas: 1) the Utah constitutional aspect, 2) the educational aspect, and 3) the financial or economic aspect.<sup>26</sup>

*The Constitutional Aspect.* Constitutionally, Williamson pointed out that Utah laws forbade the teaching of sectarian doctrine in a state-controlled school. He questioned whether Bible courses in seminaries were truly free from sectarian doctrine. He quoted from the introduction to the current seminary textbook, *Outlines of Religious Education*: "Basic aims in the teaching of theology, an abiding testimony: That God is our Father; that Jesus is the Christ and that Joseph Smith and his successors are the prophets chosen by Him to reestablish His gospel in the earth as the power of God unto salvation."<sup>27</sup>

He went on to show evidence that the Book of Mormon, specifically chapters of Ether and 3 Nephi, had been used to supplement the Bible during Old and New Testament studies. He charged the seminaries with teaching doctrines in credit courses accepted by no other religious body besides the LDS Church. He charged:

That the Garden of Eden was located in Missouri; that Noah's ark was built and launched in America; that Joseph Smith's version of the Bible is superior to the King James version; and that Enoch's city, Zion, with all its inhabitants and buildings, was lifted up and translated bodily from the American continent to the realms of the unknown may all be facts, but they are not accepted as such by the religious world in general, and consequently must be classed as denominational doctrine.<sup>28</sup>

Next, Williamson questioned whether the current relationship between seminaries and public high schools violated the principle of the separation of church and state. He said the state was giving financial support to seminaries by allowing students to be transported in state vehicles to schools, where they would subsequently be attending seminary classes during the day. He claimed high school rooms were being used for seminary classes, heat and janitorial services were being provided from public funds, and school attendance offices were being used to report absences from seminary classes. He even went so far as to claim that students using school study halls to do homework from seminary classes were in violation of the law. Williamson complained that in the minds of the public, the seminaries and schools were "thought of as one institution." Seminary

buildings and high schools were next to each other, students rode to both in the same buses, even most high school yearbooks of the time published portraits of the seminary teachers alongside their public school counterparts. Although Williamson acknowledged the connection between high schools and seminaries to be “somewhat intangible,” his report was not without serious danger to the Church program.<sup>29</sup> The serious lack of separation between the two institutions could represent a violation of Utah law.

*The Educational Aspect.* The next section of the report dealt with what the committee saw as educational detractions in the seminary program. Williamson charged that though only a half credit was granted for each course of study in seminary, the work given in the classes were equivalent to a one-credit study course. He believed the resulting amount of work was causing students to fail in other studies, resulting in a lower rate of graduation and a greater amount of failure once students reached the college level. He wrote:

What [are] the implications for efficiency and scholarship? Are there any reasons to believe that the high school students of our state can scatter their energies over 18 units of work and do it as efficiently as students in other states who concentrate for four years on 16 units? Is there any reason to believe that the students of Utah can carry five to five and one-half units of work per year in an efficient manner when the standard for American high schools is four to four and one-half units?<sup>30</sup>

To prove his contentions, he cited a 1926 U.S. Bureau of Education study that reported the performance of county schools being below the achievements of the Salt Lake City schools. Williamson connected the academic shortfall of the county schools to the time students spent on religious studies, compared to Salt Lake schools, which had no released-time programs. From Williamson’s perspective, even if a theology course held more value than a high school course, the schools had an obligation to furnish public education, and in his judgment the seminary program was dragging down the academic achievement of the public school student who enrolled in it.<sup>31</sup>

*The Economic Aspect.* Next the report accused the seminary program of increasing the financial burden of the state, due to the effects of low grades and failures it purportedly caused. It stated that seminaries were forcing pupils to become “part-time” students since they were taking sixteen units of credit instead of eighteen. Beyond this, the report charged that curriculum had to be adjusted for *all* students to compensate for those taking fewer credits as a result of seminary. Without giving any specific numbers, Williamson estimated the cost to the state because of these factors to be “many thousands of dollars.”<sup>32</sup> Appealing to the taxpayers,

he laid out what he felt were the consequences of the continuation of the seminary program:

If students in certain schools devote one-sixth of their time to theology and five-sixths to the public school, then a 36-week term with theology becomes the equivalent of a 30 weeks' term without theology.

From the standpoint of equity, should taxpayer A, who lives in one part of the state, and who may be vitally interested in public education, but not in theology, have his taxes increased in order to lengthen the school term of a district in another part of the state, in which the pupils devote only five-sixths of the lengthened term to public education and one-sixth to theology? Would it not be more just to the taxpayer to have a 30 weeks' term without theology, since, in terms of public education, one is the equivalent of the other?<sup>33</sup>

Williamson was careful to explain that the issues involved were constitutional, educational, and financial, not religious. He further stated that he did not question the value of religious education. Rather, he did question the seminary program's "laxity" toward observance of the laws. Williamson felt that church and state had an obligation to lead the way by their adherence to the Constitution. Finally, Williamson stated he felt the seminary program was an infringement on the spirit of the law and possibly a violation of the letter of the law.

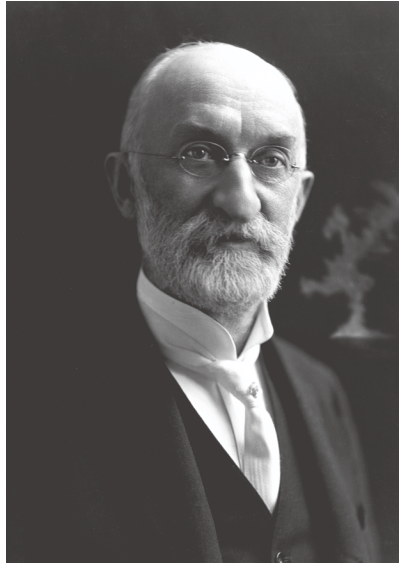
The state board moved cautiously to assess the credibility of the Williamson report. A three-man committee of the board consisting of C. A. Robertson, George A. Eaton, and Joshua Greenwood was appointed to consider the validity of the report's claims and make recommendations by the end of March.<sup>34</sup>

### **A Dangerous Time**

The attack on the seminaries was particularly painful for Merrill. Not only was he the current head of the Church Educational System, but seminary was also his brainchild. Only two years before the issue of the Williamson report, Merrill ended his nearly thirty-year tenure as head of the University of Utah's School of Mines to accept a call to serve as Church Commissioner of Education. By the time Merrill began his service as commissioner, the Church had already thrown its lot in with the seminaries. A return to the academy system at this point would have been almost impossible, given the financial trauma of the Depression. Now the whole educational program of the Church was about to collapse like a house of cards, and Merrill would have to struggle to put together the pieces. Because of the financial situation of the Church, an attack on the legality of the system could not have come at a worse time.



Franklin S. Harris. Courtesy Church History Library, © Intellectual Reserve, Inc.



Heber J. Grant. Courtesy Church History Library, © Intellectual Reserve, Inc.

Like most major institutions at the time, Church finances were sinking under the burden of the Great Depression. Merrill's correspondences during his service as commissioner were filled with pleas toward Church educators to be extremely cautious with their funds. To Franklin S. Harris, the president of Brigham Young University, he wrote, "The income of the Church is going rapidly from bad to worse, resulting in the First Presidency looking with very grave concern upon every item of expenditure."<sup>35</sup>

A glance into the internal workings of the Church Board of Education reveals how stark the situation had become. Upon his succession to the office of commissioner, Merrill was informed that "the policy of the church was to eliminate Church schools as fast as circumstances would permit."<sup>36</sup> With most of the Church academies already closed or transferred to public education, the Church next moved to transfer or eliminate its junior colleges. In a meeting held on February 20, 1929, when Merrill pressed the question of how far the closures would go, he was answered that the policy would eventually extend to all Church schools. When Merrill asked if this included BYU, Heber J. Grant informed Merrill that even BYU would have to be considered for closing or transfer. No final decisions were made concerning BYU at the time, but it was clear that the school's existence was in jeopardy.<sup>37</sup>

Merrill did not favor the closure of any of the Church schools, unless there was no alternative. While he immediately began making the

arrangements to transfer the Church junior colleges to state control, he had a different vision for BYU. Almost immediately, he began work to keep BYU in the Church Educational System. In a letter dated February 21, the day after the board's decision, Merrill wrote to a stake president in Utah Valley, requesting his assistance in taking steps necessary to ensure BYU's survival. He wrote, "My own hope and fondest desire is that we may retain the BYU as a senior and graduate institution, eliminating its junior college work, and make the University outstanding, a credit to the Church, and a highly serviceable and necessary institution. But [whether] this can be done or not will, of course, depend on conditions."<sup>38</sup> When the announcement was made a few days later that the Church would be closing two schools by June 1930, many at BYU sensed the danger to their own institution. "The whole thing is full of dynamite," Harris confided to John A. Widtsoe, sharing his feelings that Church education was headed in a dangerous direction.<sup>39</sup>

Over the next few months, Merrill carefully arranged for the transfer of the junior colleges while ensuring his support for BYU. Two months after the board's meeting, Harris confided to a faculty member that "the little flurry [over the school closures] has blown over as far as we are concerned."<sup>40</sup> Then came the Williamson report. With the fate of the seminaries now threatened, the future of the university was as well. It is ironic

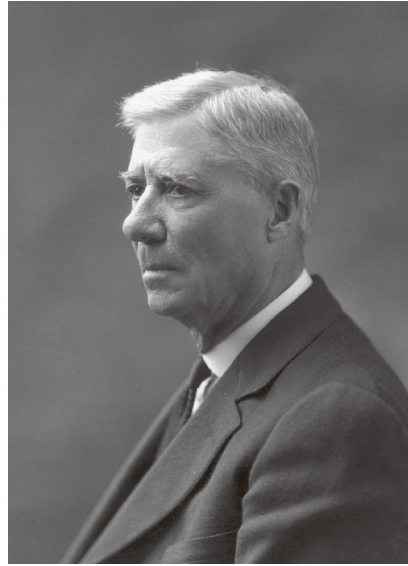
that the seminaries and institutes, which were intended to replace the Church schools, were now a key factor in Merrill's strategy for keeping BYU open and under Church control. Before the Williamson report was issued, Merrill had written to George Brimhall, head of religious education at BYU, explaining, "*The most effective argument that I have made for the permanency and continued maintenance of the BYU is that we need it for the training of teachers in the Department of Education. I think the Department of Religious Education should be the strongest and most developed . . . of any department in the University.*"<sup>41</sup> To convince the skeptical board members



John A. Widtsoe. Courtesy Church History Library, © Intellectual Reserve, Inc.



that BYU should be maintained, Merrill had emphasized the one truly unique thing the school could offer: training for Latter-day Saint religious educators. Merrill's correspondence with Harris during the period indicated his desire to have every seminary and institute teacher trained at BYU, and to have them receive master's degrees in religious education there as well.<sup>42</sup> By taking such a bold initiative, Merrill had given the board a solid reason to retain BYU. However, in doing so he had inextricably tied the fates of the released-time seminary program and BYU to each other. If released time was eliminated, there would be little need for professional religious educators. Church finances would not permit a return to the academy system, and the institute program was still in its infancy, employing a mere handful of teachers. In Merrill's mind, BYU had become the head of the Church Educational System, and the seminaries and institutes its body. Any threat to one could mean the death of the other. Expecting to use the seminaries to save BYU, this sudden turn of events could have seriously curtailed Merrill's efforts to keep the school alive. Having been in office less than two years, Merrill was facing disaster on his watch unless immediate action was taken.



George Brimhall. Courtesy L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.

### Merrill's Response

With so much at stake, Merrill immediately moved to answer Williamson's accusations and assure Church educators of his confidence that he saw no reason to panic. The day after the report was published in the *Salt Lake Tribune*, Merrill wrote to Harris, saying he thought it was "perfectly feasible and logical to make the BYU the most outstanding institution between the Mississippi and the Pacific coast. Enough said."<sup>43</sup>

The same day, Merrill fired back by publishing a lengthy response in the *Deseret News*. Merrill countered that the seminaries saved state money by shouldering part of the educational load and raising the

standards of the students attending state high schools. Part of the report he labeled an overreaction:

To one who knows the real situation, the question will arise, was not the writer of the report straining at a gnat and swallowing a camel?

How, for example, does the existence of a seminary near any high school add one penny to the cost of transporting pupils to and from the high school? Every person who gets this transportation is a school student, and if the seminary did [not] exist not one penny could be saved in transportation.<sup>44</sup>

Merrill went on to declare that the seminary system saved the state thousands of dollars by employing teachers and providing for part of the cost of the credits required for graduation, without charging for any of these services. He said the goal of modern education was the formation of character, which the seminary was designed to do. He also cited a Church questionnaire, sent out fourteen months earlier, in which nearly every high school principal questioned cited the presence of a seminary as a positive thing for their schools.

Merrill acknowledged that the report had raised some valid concerns and vowed, “Should any of these conditions . . . be found to exist, they will be corrected.”<sup>45</sup> He attempted to explain why some of the discrepancies in the report existed. For example, in Panguitch, Utah, the seminary had been conducted in a high school classroom. This action, however, had come about as the result of a trade in which the school, lacking facilities, had been given permission to use a local Church recreation hall for some of its classes.

Merrill also pointed out that universities and colleges had allowed credit in biblical studies for years and there was no reason why high schools could not offer credit as well. Answering the more serious question of scholastic deficiency in seminary students, Merrill said, “The impression widely prevails that the scholarship of seminary students is higher than that of non-seminary students. If this is the case, then what the report says about scholarship of high school students has no point whatever.” He promised that the charge would be investigated by the Church.

Lastly, Merrill took affront to the charge of the Church not supporting the law. He declared that the Church stood firmly behind the laws and acted as a force to promote “sound morality, good citizenship, and high educational ideals and attainments.”<sup>46</sup>

Merrill was not the only one to respond to the report’s accusations. D. H. Christensen, a former superintendent of Salt Lake City schools and a Latter-day Saint, wrote a letter to the *Deseret News* questioning Williamson’s interpretation. He noted that the U.S. Bureau of Education report

quoted by Williamson also declared that Salt Lake City children attended 480 weeks of school during their 12-year education, while students from rural districts, where seminary was offered, attended only 420. Therefore, any academic differences between the two groups were more likely to be a product of less school time rather than time spent in seminary. He continued, "A high school student who spends one-fifth of his school time in the study and discussion of things spiritual, loses nothing and he may gain much by the uplifting and wholesome influence of such effort."<sup>47</sup>

While publicly lambasting the Williamson report, behind the scenes Merrill took steps to remedy some of the problems highlighted by the crisis. The minutes of the Church general board indicate that an extensive discussion took place in a February 5 meeting of the board concerning the report. Merrill also proposed that Guy C. Wilson, his right-hand man, be moved to the BYU religion department.<sup>48</sup> Wilson, who had served as the first full-time teacher at the original Granite High School seminary and as a principal at a number of LDS schools, was a staunch supporter of the seminary system.<sup>49</sup> The crisis provided the sense of urgency Merrill needed. His request was granted, and Wilson was in place by the end of February.

A month later, the reason for the move became evident when Merrill and Wilson both proposed that all seminary texts and outlines be rewritten. He also proposed that a department of religious education be established at BYU, with Wilson as the head.<sup>50</sup> Prior to this time, the theology department of BYU had not been part of any particular college, and its entire faculty consisted of former BYU president George Brimhall.<sup>51</sup> Even before the Williamson report, Merrill had begun to see the need for a professional group of scholars to guide religious education in the Church. In May of the previous year, he had written President Harris, saying, "May I suggest that serious consideration be given to the problem of making a strong department of religion, or of religious education, whichever you care to call it."<sup>52</sup> In Wilson, Merrill placed a capable lieutenant at BYU, who began building a world-class association of Latter-day Saint scholars. Dr. Sidney Sperry, fresh from earning a PhD at the University of Chicago, joined the faculty in 1932, and Russel Swensen, also trained at Chicago, arrived the next year.<sup>53</sup>

### **The Crisis Deepens, March–April 1930**

As Merrill was taking these steps to ensure the future of the seminary program, the situation went from bad to worse. The special committee appointed to review the matter issued a response even more condemnatory than Williamson's. The report also revealed that the state board was

beginning to fracture along religious lines concerning the question. Only two members of the three-man committee agreed to sign it. Judge Joshua Greenwood, a Latter-day Saint from Utah County, refused to sign, while George Eaton, assistant superintendent of Salt Lake City, and Clarence Robertson, an attorney from Moab, endorsed its contents.<sup>54</sup> Following the report, the state board invited Merrill to make a defense a month later. Unless he managed to turn the tide, it looked as if the Church would suffer a serious defeat. The report was a thirty-two-page bombshell in which the two men sustained every charge of the Williamson report and then went on to add their own legal concerns about released-time seminary. Included in the committee's report were legal opinions from seven different states and citations of several court cases against religion being taught in schools. Almost all of the report came across as an attack on the seminary program, with only one court decision cited that upheld credit for biblical studies. Based on these assumptions, the two men recommended the following actions: First, "a complete disassociation of the seminaries from the high schools" (referring mainly to the practices of the two sharing attendance records), second, "withdrawal of any credit for religious instruction" at both the high schools and any state universities, and finally, the condition that no students be excused during the school day to attend seminary classes or be allowed to work on seminary work during the school day.<sup>55</sup>

These provisions meant essentially the end of the released-time program and would have dealt a serious blow to the weekday religious education program of the Church and the fledgling institute program. All of the work devoted to the transition in the educational system from the academies to the seminaries would be effectively wiped out in one stroke. Aware of how far-reaching the consequences of their recommendations could be, it was Robertson and Eaton who moved to take no action until Merrill could be brought before the state board to make his case. The action was seconded by Greenwood, who later explained his refusal to sign the report by saying that he didn't want to incite the public furor over the report. He stated: "It must be admitted that it is the LDS seminaries that are affected by this report. My idea was that Dr. Merrill might talk this matter over with the committee of three before final action is taken."<sup>56</sup> As drastic as the second report made the situation seem, it suffered from many of the same defects as the Williamson report. Nearly all of the legal opinions given were related to the teaching of religion in public schools, something released time was specifically designed to avoid, and the report made the bold assumption that blame for Utah students' academic woes could be laid at the feet of Church education. Nevertheless, the situation had grown

darker. Released time, which already faced a major reformation, was now threatened with complete discontinuance.

Recognizing how serious the situation was becoming, Merrill rallied the troops and launched a counterattack. At a meeting of Church educators held two weeks later, on April 7, President Heber J. Grant; Milton Welling, Utah's secretary of state and a former stake president; and Milton Bennion, dean of the University of Utah's School of Education and a member of the Church General Sunday School Board, each took turns hammering away at the state board's actions. Grant stated that "our fathers and mothers came to Utah and bore their trials and tribulations for the sole purpose of religious liberty" and called for a public vote to determine the future of seminary. Welling issued an all-out call for the faithful to organize and fight the board's decision: "If they [the seminaries] are lost to the state it will be the fault of the people of the Church. If they will unite their efforts and follow their convictions, I do not think that the work of the opposition can be accomplished."<sup>57</sup> Bennion first detailed the opposing arguments, then systematically attacked them, citing his correspondence with practitioners of released-time programs in five different states. He went on to extol the benefits of character education, saying: "The government does not hesitate to call for the cooperation and assistance of the church in time of war or other national crisis. In time of peace the government might very well welcome the cooperation of the churches in every feasible way in promoting the character education of its young people."<sup>58</sup> Bennion sounded the most conciliatory note, expressing that it might be possible to reduce the number of hours of released time, but overall the conference was a call to war. The report of the conference in the *Deseret News* carried the subheading "Pres. Grant Calls on Saints to Defend Rights."<sup>59</sup> The Church had made its position clear. Based on the board's next move, it appeared that a drawn-out public battle could be looming.

### **Before the State Board, May 1930**

A month later, Merrill was given the chance to present the Church position before the board. The moment was crucial. On May 3, 1930, Merrill presented a twenty-four-page document addressing the claims of Williamson's report. While this written reply was likely the work of many in the Church department of education, it bears Merrill's signature and repeats many of the arguments he had already made in favor of seminary. Robert L. Judd, a local attorney, appeared with Merrill to present the Church stance on the legal issues surrounding the case.<sup>60</sup>



Merrill began by addressing the charge of seminary being a cause of deficient scholarship among high school students. Securing data from the fifty-two high schools where seminaries were adjacently located, he reported that in 1928, out of a total of 2,017 students, 1,019, or 55 percent, were also seminary graduates. The seminary graduates had an average scholarship grade of 83.3, compared to their nonseminary counterparts, who had an average grade of 81. The figures from 1929 reflected roughly the same conclusion, with an average grade of 83.6 among seminary graduates and an average of 81.6 among nongraduates.<sup>61</sup>

Addressing Williamson's charge of seminary attendance affecting college performance, Merrill cited statistics from Brigham Young University, where seminary graduates enjoyed an average grade of 75.6 over 71.3 of the nonseminary students. At the Utah State Agricultural College, seminary graduates earned an average grade of 81.42. The average grade of nonseminary graduates there was 79.36. The University of Utah had declined to provide statistics. Merrill acknowledged the extra work required of seminary students, but he responded that there was "no excellence without labor" and "no royal road to learning." If students were failing to excel, it was more likely the result of too little study rather than the fault of the seminary.<sup>62</sup>

Answering concerns that seminary studies prevented students from graduating, thereby costing the state more money, Merrill's analysis showed only one student in 1928 in the state of Utah whose failure to graduate from high school was linked to his seminary studies. In 1929, three students gave seminary as their reason for not graduating. Of these, only one had returned to complete the course of study. Having begun to establish his case, Merrill now leveled an accusation at the state inspector: "Can there be any justification for a school official making grave charges against an institution without having facts to substantiate his charges?"<sup>63</sup>

Next, Merrill addressed the accusations that the seminary program cost the taxpayers thousands of dollars. He responded that they were in fact saving thousands of dollars. Quoting statistics from the Williamson report, Merrill pointed out that if seminary provided one-sixteenth of a student's high school credit, it was work being done for the state cost-free. Elimination of the seminary program would require the additional hiring of teachers and expansion of classroom space to cover the classes it provided.

Merrill further responded by citing questionnaires sent from the Church office of education to superintendents of school districts where seminaries operated. The letters asked two questions: "1) Are the LDS seminaries in your district a financial burden to the public school funds? That

is, if they should cease to exist would the expense of operating your high schools be increased, diminished, or not affected? 2) Is the influence of the seminary helpful or hurtful to the high school and the students? That is, does it handicap or otherwise [impair] high school discipline, efficiency or morale?"<sup>64</sup> Of the superintendents questioned, Merrill reported "nearly all" responded that expenses would increase if seminaries were eliminated. None said expenses would decrease. In answer to the second question, all but two respondents reported seminaries as being helpful to discipline, efficiency, and morale. The remaining two said they had no evidence either way. Though the reports were issued with promised anonymity, several superintendents volunteered to make their names public, along with statements supporting the seminaries. Superintendent R. V. Larson of Cache County wrote:

Should the two seminaries in Cache District cease to function it would cost the district an additional \$6,000 per year at least. I am considering the salaries only, and not the additional room that would be needed at the North Cache High School. Two additional rooms would be needed at North Cache High School, at a cost of four to five thousand dollars per room, and the situation would be such that it would be inadvisable to build two rooms alone, so four rooms would be built, at a cost of \$16,000 to \$20,000.

Our high schools were a fair size when the seminary work was introduced. Immediately principals and teachers commented on the wholesome effect they seemed to have on the student body. There was evident a better tone in the high school and a higher moral plane. It could not be otherwise with most of the students coming in daily contact with a high school class teacher, who was emphasizing the ideals of right-living.

For twenty years I have been partly responsible in an administrative way for the introduction of changes in the course of study in the State as a whole and in the Cache schools in particular. I have seen highly lauded schemes introduced and have seen them fail, and we have silently buried them. The seminaries were expected to give the high school pupil a foundation for moral integrity and character development. They are doing so to a surprisingly successful extent. They seem one thing that is coming up to expectations.<sup>65</sup>

Other superintendents responded similarly. One who remained unidentified wrote: "I am very glad to say that we consider that a portion of our teaching load is being carried by the seminaries. We consider ourselves fortunate in having the present seminary arrangement."<sup>66</sup> In all, sixteen superintendents responded, none citing seminary as an added financial burden.

When it came to the expense needed to transport students to schools, and therefore to adjacent seminaries, Merrill responded even more cuttingly. He drew notice to the fact that even Williamson himself had admitted seminaries did not increase the public expense. He pointed out the absurdity of this charge:

As to bus transportation, we admit frankly that the seminary is benefited by the transportation system of the high school. So is the corner grocery, the refreshment stand, the shop, the business house, and the town as a whole in which the high school is located. It could not be otherwise. But within the meaning of the law no sane person would assert that because these places are benefited by the presence of the high school in the community they are therefore supported, in part, in any legal sense whatsoever, by the money of the taxpayers.<sup>67</sup>

Merrill continued, observing that instead of costing the state money, the Church had been shouldering a significant amount of the work of providing the state with education. He cited schools such as LDS College, Dixie College, and the other junior colleges under Church control as institutions saving state funds by providing education for the young. There is perhaps an air of irony in Merrill making these statements while he was simultaneously working to pass these assets on to the state, but the fact remained that the Church had borne a great part of the educational burden of the state for the better part of its history.

Merrill must have known the most serious part of Williamson's charges consisted of the church and state violations of the seminary program. Recognizing this, his strongest arguments were saved for this issue. Comparing seminaries to private schools, he wrote:

It is the practice of the public schools of America to give credit on transfer from private schools; and further, the public schools accept credit on transfer from reputable private schools for subjects that they themselves do not teach. This is common practice in America. To regard this practice as illegal seems a draught on the imagination. The schools of America have established their relations upon a basis of confidence. The public school has confidence in the honor and integrity of the reputable private school, so private school certificates are commonly accepted by the public school.<sup>68</sup>

Merrill readily admitted that the Utah Constitution prohibited the use of public funds for religious purposes, but he also acknowledged that liberal interpretations of the provision abounded. For example, the Utah Legislature paid for the salaries of its chaplains, the State Senate opened with prayer, chaplains were allowed to pray in the United States Army and Navy, and so forth. Merrill asked, "Does this violate the Constitution?

Literally, yes, a layman might say; in spirit, no, we believe every court would interpret it.”<sup>69</sup>

Next Merrill observed that it was general practice for colleges throughout the country to grant credit for Bible courses taught in a nonsectarian manner. He cited several cases of universities in Iowa and Montana. He cited the warm reception the institute program had received at the University of Idaho and the Utah State Agricultural College as examples of how well state institutions worked with the Church’s religious education programs. Further, Merrill presented a study showing that twenty-six other states allowed credit for religious education. Only fifteen had no form of religious instruction affiliated with public schools. In most states, public school time was being used for religious instruction. He cited an article from the *International Journal of Religious Education* to show released time to be common practice in states from across the nation. Examples were provided from Bridgeport, Connecticut; White Plains, New York; Dayton and Toledo, Ohio; Kalamazoo, Michigan; Oak Park and River Forest, Illinois; Kansas City, Kansas; Minneapolis, Minnesota; and Portland, Oregon.<sup>70</sup>

Merrill pointed out that the virtues of the seminary system even received praise from the U.S. commissioner of education: “On a visit to Utah, when he was United States Commissioner of Education, Hon. J. J. Tigert said to Mr. Robert D. Young, who at the time was a member of the State Board of Education, that he had made some study of the LDS seminary system in cooperation with public high schools and thought it one of the finest arrangements in the land. He said he believed this method of religious character training would, in the near future, be adopted by the whole United States.”<sup>71</sup>

Referring to his experience with the first seminary at Granite High School, Merrill explained how the program had received unanimous approval from the local school authorities, including the superintendent of public instruction. In addition, the state had passed a law on January 5, 1916, allowing credit for Bible study.

Merrill candidly admitted that the Williamson report was correct in some particulars and explained the action being taken to correct these faults. He wrote:

It may be that the teaching of the Bible has not always been free from sectarianism. But the office of the LDS Department of Education has urged that the teaching be non-sectarian. This has been the objective of the Department. We are quite sure that departures from this kind of teaching have not been frequent or general, even though the Inspector infers to the contrary. We have data on this point from every seminary

teacher. We know whereof we write. Revised lessons on the Old and New Testaments, now in the course of preparation, will certainly be free from sectarianism. Samples of these lessons have recently been furnished members of the State Board.

He also raised a valid point in asking if it was possible for any subject, at any school, to be taught without some measure of religious, atheistic, or political bias attached to it. Too narrow an interpretation of the law could act as a two-edged sword. It was valid to suggest that secularism in itself was a kind of religion.

Questioning the inspector himself, Merrill asked why, as far as could be ascertained, he had not spoken personally to any high school or seminary principals about the problem before submitting his report. Why were all those involved not consulted before charges were made? In the past, the Church Department of Education had asked him to contact them if he found anything questionable in their practices.

Merrill's next appeal was to the public sense of justice. The Church had thrown its entire support toward public education. Church academies had been abandoned and in many cases donated to the state, in large measure helping to give birth to Utah's public schools. In many cases, buildings had been generously given to provide housing for public schools. This transfer took place in large measure *after* the 1916 law, in good faith that the right to released time and Bible credit were assured. If the Church had known the state would go back on its word, it would never have abandoned its academies in the first place. Merrill felt the assurance of continued religious education side by side with state education had played a key role in bringing LDS citizens to the support of the public school system.<sup>72</sup>

Speaking boldly, Merrill addressed the issue that perhaps the report was colored with sinister tones. Was the report motivated by religious intolerance? Was it an attack on the legality of released time religious education or the cultural dominance of the LDS Church in Utah? Such suggestions may have been uncomfortable for the state board, but it was impossible to ignore this figurative "elephant in the room."

The adoption of the committee's suggestions means the death of the seminary, and the enemies of the seminary all know it. But why do they want to kill something that every high school principal and school superintendent of experience says is good, being one of the most effective agencies in character training and good citizenship that influences the students? Is religious prejudice trying to mask in legal sheep's clothing for the purpose of stabbing the seminary, this agency that has had such a wonderful influence in bringing a united support to the public schools?<sup>73</sup>



The report, concluding with such incendiary language, clearly indicated to the board that Merrill was not going to let their resolutions pass without a fight. Following Merrill's remarks, Judd rose and stated that the abuses represented in the Williamson report did not answer the real question, whether released time was unconstitutional or not. The matter would only be settled in court. He then added that if the board was not opposed, he was authorized to say that the Church would be willing to have the question tested in the courts. Judd's challenge indicated his and Merrill's confidence in their position. Challenged in court, the Church held a good chance of winning.

Immediately after Judd's statements, both Merrill and Judd stressed that they needed to know "at once" if any action would be taken by the board that would interfere with Church authorities in allowing seminary teachers to enter into their contracts for next year. Put under pressure, the board agreed not to take any action immediately affecting the status of the seminaries. C. N. Jensen, the state superintendent of education and the board chairman, immediately occupied a mediatory position, and moved to soothe both sides. Jensen stated that he had read every legal ruling he could find relating to the matter since the Williamson report had been issued and was in consultation with several attorneys. He gave his position that the question was "not economic nor scholastic, nor a moral question calling for determination as to whether the seminaries were good or bad, but that it was a legal question." He motioned to send the question back to the three-man committee and have them confer with the state attorney general. The motion carried unanimously. Williamson, who was present at the meeting, was offered a chance at rebuttal but deferred until he could fully read the Merrill report and formulate a response.<sup>74</sup>

Merrill's actions gave the seminaries a temporary reprieve, but the question was far from settled. Still, the results were a victory after a string of setbacks. Franklin Harris wrote Merrill to compliment his actions: "It seems to me you have hit them with a solar plexis blow, and I do not see that they have a come-back."<sup>75</sup> Merrill himself remained less sure of the outcome. At a meeting of the Church board a few days later, a lengthy discussion on the actions of the state board took place. Merrill expressed his hopes that the matter was settled and no further action would be taken. At the very least, he assured the board, seminary was safe for another year.<sup>76</sup>

### **Attack and Counterattack, Summer 1930**

Meanwhile, the question still lingered with the members of the state board. In a meeting held on June 28, C. A. Robertson presented a plan

for settling the question in court. In the negotiations following Merrill's appearance before the board, Judd and the Church attorneys had apparently conceded not to bring to bear any legal attacks if credit was eliminated by the board, seeing it as the board's right to extend or withdraw credit. As a compromise, both parties had agreed to find a taxpayer to bring to a "friendly lawsuit" to answer the questions arising out of the Williamson report.<sup>77</sup>

At the same meeting, Williamson appeared before the state board and delivered his rebuttal of Merrill's arguments. Presenting another lengthy report, Williamson reiterated his points from the original and attempted to rebut Merrill's arguments. Part of Williamson's objections rested in his feeling that school cooperation with the seminary program gave an unfair advantage to the LDS Church in the teaching of its children. According to his logic, other churches would be forced to open their own seminaries to maintain equal footing with the LDS Church. Replying to Merrill's refutation of his arguments that seminaries didn't detract from student scholarship, Williamson argued, "Comparison of grades is not a valid criterion," but then continued to cite substandard performance of Utah schools as evidence of the detrimental effect of released time. He argued, "It is only necessary to answer a simple question. Do the schools, in order to do their work efficiently, need that one-sixth of the students' time which is appropriated by the church?" He also attacked what was perhaps the most biting of Merrill's arguments, that the seminaries were saving the schools millions of dollars by taking responsibility for one-sixth of their education. Counter to this, Williamson argued that there was "the indirect cost imposed upon the schools, due to the fact that they utilize only five-sixths of the pupils' time in work for which the schools are established, and for which the people pay taxes." Finally, Williamson underlined all of the arguments by expressing his feelings that the relationships of schools and seminaries were not proper. "Important as it is, the economic phase is not, of course, the most vital issue. The union of church and State and the introduction of sectarian institution into the public schools far transcends in importance any economic loss unconstitutional though that may be. The existing relationship between the public schools and the seminaries is fundamentally wrong. Even if it saved the State millions of dollars and did not cost a cent, it would still be wrong."<sup>78</sup>

Merrill, who was not present at the state board meeting, soon caught wind of Williamson's renewed attacks. In a July 2 meeting of the Church board, he reported on Williamson's response and expressed his own opinion that Williamson had been "rather misleading." According to the minutes of the Church board, he also stressed "the seriousness of the

situation.”<sup>79</sup> Sensing the tenaciousness of Williamson’s attacks, the next day Merrill again went on the offensive. Meeting with a gathering of BYU students, he announced that the Church would “fight to the bitter end” to save its seminaries and that the controversy might eventually end up in the Supreme Court.<sup>80</sup>

In the months that followed, Merrill launched a public relations crusade to save the seminary program. In September 1930, an editorial appeared in the *Deseret News* laying the case before the public. Many of the arguments in Merrill’s report were repeated, with some new appeals. The editorial stated that the United States was a Christian nation, and spoke of the ill effects of the nation’s youth being raised without religion.<sup>81</sup> The same month, Judge Daniel Harrington wrote an article that appeared in the *Improvement Era*, the official Church magazine, defending the role of the seminaries. Harrington called the seminaries “corollaries to the schools, as they tend to inculcate moral rectitude, strength of character and Christian ideals.”<sup>82</sup> Merrill himself gave a series of radio addresses focusing on different areas of LDS theology, which also included an impassioned defense of the need for religious education in America.<sup>83</sup>

While maintaining a hard line publicly, Merrill was also working behind the scenes to remedy the ills spotlighted by the Williamson report. The new texts by the Church board Merrill had spoken of were ready for publication by August 1930, an astonishing speed for the writing of any textbooks. Ezra Dalby, the author of the new text for the Old Testament course of study, *The Land and Leaders of Israel*, noted in his preface that “the text has been written under pressure of time and no doubt many imperfections will be noted.”<sup>84</sup> James R. Smith, author of the New Testament text, *The Message of the New Testament*, noted in his preface that “the text has been written, as requested, from a Christian point of view without regard to creed.”<sup>85</sup> They also featured some notable changes from the former texts. The first lesson in the Old Testament manual was “Abraham, the First Pioneer,” leaving out the beginning of Genesis, where many of the teachings were that Williamson had focused on as an example of sectarian teaching. Missing were such notable lessons as “Our Life Before We Came to Earth” and “The Story of Enoch,” both of which had been present in earlier texts.<sup>86</sup> The New Testament manual began with “The Coming of John the Baptist” but left out such chapters from earlier texts as “Prophetic Testimonies of Christ’s Earthly Mission.”<sup>87</sup> The new texts featured no references to works by other Latter-day Saint authors, which were abundant in the earlier works.

The new texts were so innocuous when it came to Mormon doctrine that they raised concerns among some members of the Church board.

In a meeting in December 1930, Joseph Fielding Smith, at the urging of President Grant, pointed out a number of things in the Old and New Testament texts that he felt were “very unsatisfactory and not in harmony with revealed truth.” Smith plainly stated that he felt the texts were “not suitable for use among [the] young people” of the Church. Merrill responded that “on the advice of the Church attorneys no dogma had been incorporated in the books and . . . the authors had written them with [those instructions] in mind.” A hearty debate ensued, but in the end, no changes were made. Survival was the order of the day, and Merrill was willing to make a few sacrifices to ensure the continuance of the seminary system.<sup>88</sup>

### **The Tide Turns, November 1930–September 1931**

While this flurry of changes occurred on Merrill’s side, an ambiguous silence prevailed from the state board. After Williamson’s second report in July, the board met only sporadically, and no discussions occurred about the fate of the seminaries. While the minutes from this period reveal little about how the negotiations were progressing, Merrill learned privately that the search to find a taxpayer to bring the seminary question to suit had stalled. In a Church board meeting held in November 1930, Merrill reported that state superintendent Jensen and the Church attorneys had come to the opinion that local boards of education should be allowed to handle the question rather than the state board. Both Jensen and Joshua Greenwood had informed Merrill that “no more would be heard on the matter.”<sup>89</sup> This development weighed heavily in the Church’s favor. With dominant populations in most areas of the state, if control fell into the hands of the local boards, a complete ban on released time and cancellation of credit seemed highly unlikely.

Perhaps emboldened by this information, Merrill continued to expand the seminary program. In a Church board meeting held December 26, 1930, Merrill pressed the issue of the closure of LDS College. The closing of the school had already been announced a year earlier,<sup>90</sup> but some members of the Church board were hesitant to close the school outright with the fate of the seminaries still in question, especially in Salt Lake City. Merrill pressed that with the opening of the new South High School in the city, LDS College should be closed immediately so that teachers at the LDS school could find employment at the new high school. The main opponents of this view were Joseph Fielding Smith and David O. McKay, who both expressed concern that only a small percentage of LDS students in the schools could attend seminary. Merrill cited similar situations in other cities and replied that he felt the students could still be reached if the

Church board gave the move its backing. The debate ended when President Grant intervened, drawing attention to the hard facts of the matter. Grant explained that the question wasn't "what we would like but what we can do. We can't extend the seminaries unless we stop these schools." Grant expressed his regret over the closing of the school and his desire to keep it open. He even went so far as to say that "the influence and spirit of the Church school is something that can't be had in another institution, in this city or elsewhere, but he could see no alternative."<sup>91</sup> The weight of these remarks cannot be underestimated. It signaled what was effectively an acknowledgement that the era of the academies was over. The seminary crisis and the energies exerted to save the program had effectively brought into focus where the Church's resources were to be devoted. With Grant's backing, the board voted unanimously to close the school and lay the fate of the students in the hands of the seminary system.

When LDS College closed at the end of the 1931 school year, the seminaries expanded in the Salt Lake area to provide for the influx of LDS students who would now be attending public high schools. However, since released time was still restricted in Salt Lake City, this move served to prod the state board to finally announce its position. It read, "It is necessary that the seminary classes will be held at the hours specified [before and after school], since the Salt Lake City schools *do not follow the precedent of other schools in the state and the nation in giving released time during school hours for this type of study.*"<sup>92</sup>

While circumstances seemed to be moving in favor of the seminaries, Williamson prepared a third attack on the system. A new report was submitted and discussed by the state board in June 1931. His reasoning for the submission of the new report included a tacit acknowledgement that Merrill's campaign to defend seminary had produced a telling effect on the situation.

The Church Commissioner of Education, through his two articles in the public press, through mimeographed and printed material sent to local school boards, through public addresses, and through instructions to local church officials, has interpreted the seminary movement in a way which obscures the vital principles involved, and which tends to stimulate a crusade for the further extension of the seminary system, with the perpetuation of its unconstitutional relationship to the public schools.<sup>93</sup>

Williamson's report suggests frustration and aims some direct charges of coercion at Merrill and his associates. He alleged, for example, that "instances have been reported where Church [leaders] have brought irresistible pressure to bear upon high school principals to stimulate greater enthusiasm among the students of the high school," but offered no specific



cases. He also charged that “in the opinion of the Commissioner of Church schools there, evidently, is no limit to the amount of school time the Church may appropriate” and that “the taxpayer has not made sufficient study of this question to realize that the schools are utilizing only five sixths of the school time in legitimate school activities.”<sup>94</sup>

Williamson then proposed his own attempt at a compromise. He suggested that students attend no seminary during their first three years, then “sever their connections with the public school” their senior year to attend seminary full time during their senior year. He noted, “This, of course, would make it necessary for the Church to pay for the students’ transportation during the fourth year, but, since this probably would not exceed \$60,000 per year, it should not prove burdensome to the Church, and it would be a great relief to the taxpayer.”<sup>95</sup> With seminary enrollment of over thirteen thousand students at the time, Williamson was estimating that total transportation costs for an entire school year for each student would total just over eighteen dollars, an optimistic estimate by any standards, not considering the other costs that would be incurred.<sup>96</sup>

A new report was submitted by the three-man investigative committee, which again split, with Joshua Greenwood dissenting. This time the two remaining committee members, C. A. Robertson and George Eaton, seemed to acknowledge that they were fighting a losing battle. Noting that their assignment to find a taxpayer to bring suit “was accepted with considerable reluctance,” they expressed their doubt that a court decision would really settle any question of credit. Hence, they moved to make a compromise. The demands of the committee were softened to request that local boards “gradually . . . lessen the time allotted to seminary instruction.” While the complete elimination of released time was off the table, the committee remained firm in their request to dissociate the schools and seminaries in relation to attendance records and insisted that no credit be offered for either seminary or institute studies. In his minority report, Greenwood dissented with the rest of the committee, insisting that the question still be settled legally.<sup>97</sup>

The final vote came in September 1931. The verdict came out six to three in favor of continuing the credit policy for seminary.<sup>98</sup> Demonstrating how divisive the issue in the community had become, all six of the board members that favored retention were Latter-day Saints, while the three dissenters, Robertson, Eaton, and Kate Williams, were not.<sup>99</sup> The victory, however, came with a cost. The board unanimously agreed to adopt two rules designed to increase the separation between the schools and seminaries. First, the board ordered a complete dissociation of the seminaries from the high schools regarding physical plants, faculty records,

and publications. Next, local boards of education were ordered to limit the time given to seminary instruction to no more than three hours a week during the regular high school hours.<sup>100</sup>

The board felt this fix was only temporary—that someday it would have to be resolved in court. C. N. Jensen, the board chairman, accurately diagnosed that the issue would “continue to arise until the legal and constitutional issues involved were settled by judicial decision.” Jensen was correct, though neither side could possibly have guessed how much time would transpire before that day came.

What had changed the situation from a year earlier, when it seemed that credit, released time, and the entire seminary system was in jeopardy? Merrill may not have realized it at the time, but the turning point most likely came when he and the Church attorney Robert Judd had extracted the promise from the state board to take no action for the current year. Time was on the side of the seminaries. As the Depression deepened and school finances worsened, the seminaries became more valuable to the schools. Perhaps the most piercing arguments Merrill had made before the state board were the financial ones. The simple fact was that seminary did save the schools a considerable amount of money. Asking the schools to increase their student, teaching, and classroom loads by one-sixth while they were struggling to keep their doors open at all was a price too heavy to pay. Williamson’s arguments of the financial strain the seminaries were placing on the system may have been too ethereal. On the other hand, it was a concrete reality that the cancellation of released time would have cost the schools money immediately.

Another factor that may have exerted considerable influence on the state board was Merrill’s effort to divest the Church of its remaining schools. Other than LDS College, which was closing outright, the rest of the Church schools were being transferred to state control. It is somewhat telling that in the intervening months between Merrill’s defense and Williamson’s second report, the state board did not discuss the seminary issue in its meetings, but it did discuss the management of its new system of junior colleges.<sup>101</sup> The next time Merrill attended a meeting of the state board, he came not to discuss the fate of the seminaries but to work out details on the transfer of Weber College to state control.<sup>102</sup> During Merrill’s tenure, Weber and Snow colleges were transferred to state control, and negotiations began to transfer Dixie College.<sup>103</sup> It is not unreasonable to conclude that part of the reason why the state board was so generous in its ruling was that it did not wish to upset this delicate process, which still had its critics inside and outside the Church. It is possible that the sacrifice of the Church schools may have saved the seminary system, which in turn

gave Merrill the justification he needed to save BYU and the remaining Church schools.

### Aftermath

Skirmishes over the seminary issue continued in the ensuing decades. A year after the board's decision, Oscar Van Cott, a principal at Bryant Junior High School, gave an incendiary speech regarding seminaries at the annual convention of the Utah Education Association. Van Cott minced no words regarding his feelings: "Church seminaries as they are currently functioning in conjunction with the public schools are an evil 'more subtle, farther reaching, more dangerous and more unwise' than the cigaret evil, the Church is encouraging and fostering a direct violation of the state constitution and statute in operating the seminaries, and school officials who allow the functioning of the seminaries are guilty of a crime."<sup>104</sup> The Church responded with a *Deseret News* editorial repeating the basic arguments for the legality of seminary. The controversy eventually sputtered out, though it did serve to illustrate how heated feelings were on the part of some educators.

As for the two antagonists, Merrill and Williamson, the immediate future held divergent paths. Less than a week after the state board made its decision, Merrill was chosen to fill a vacancy in the Quorum of the Twelve Apostles. He still continued to serve in his capacity as Church Commissioner of Education but now occupied a place in one of the top governing councils of the Church.<sup>105</sup> He continued his work as midwife in the transformation of the education system for two more years, when

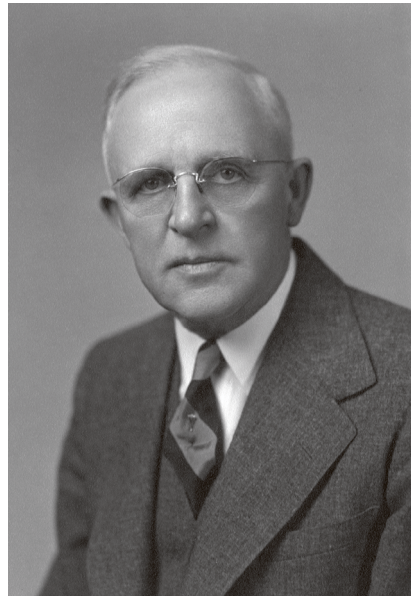


Oscar Van Cott. Courtesy Church History Library, © Intellectual Reserve, Inc.

he was called to serve as president of the Church's European Mission. Williamson, who emerges so vividly from the minutes of the state board, vanishes almost completely from sight after the 1930 crisis. According to the *Salt Lake City Directory* for 1932, he left the state in 1931, after nineteen years in Utah public education. His motives for leaving can only be guessed, but given the timing, it is likely related to the outcome of the whole affair.<sup>106</sup>

When Merrill departed in 1933 to serve as European Mission president, the battle continued to rage. The future of BYU and other Church schools were still unsure, but at least temporarily the seminary program was safe. A general improvement in Church finances and a lessening of the effects of the Depression made the future of the Church educational program more secure. A turning point came when David O. McKay, a firm advocate for the continuance of the Church schools, was called into the First Presidency.<sup>107</sup> From the mission field, Merrill continued to give encouragement and support to BYU. A year after his departure, he wrote to Harris, "We learn that the BYU has the largest registration ever. We are certainly delighted with this news and hope most sincerely that prosperity will attend you." He also expressed his desire to have the salaries of Church educators restored as quickly as possible, which he had been forced to cut during the darkest hours of the Depression.<sup>108</sup> When he returned, Merrill served on the Church General Board of Education, helping to coach his successors through similar crises. When a similar debate sprang up in 1948, Merrill counseled Franklin L. West, then Church Commissioner of Education, to adopt his old strategy of sending questionnaires about the seminary program to the local superintendents.<sup>109</sup>

It was more than two decades after the 1930 crisis that legal questions surrounding released-time seminary were decided by the Supreme Court. In *Zorach v. Clauson*, the court ruled in favor of a released-time program conducted in New York City. The



Franklin L. West. Courtesy Church History Library, © Intellectual Reserve, Inc.

arguments of Chief Justice Fred Vinson closely paralleled the arguments Merrill had made twenty years earlier: “When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe.”<sup>110</sup> The Supreme Court’s decision may have buoyed the hopes of the advocates of released time in Utah, who continued to expand the program. Released time was finally granted in the Salt Lake school district in 1956.<sup>111</sup> Institute credit continued with varying degrees of success, until the early 1970s when it was de-emphasized by the Church.<sup>112</sup>

The LDS released-time program, easily the most extensive in the United States, finally saw its day in court in 1978. In a suit between certain citizens of Cache County and the Logan Board of Education, the judge ruled that the practice of granting students released time for religious study was legal. He also ruled that the practice of the local high school providing credit for Bible study was illegal under constitutional provisions for the separation of church and state.<sup>113</sup> The decision was later upheld by the Tenth Circuit Court of Appeals in Denver in 1981.<sup>114</sup> Though the decision technically affected only one school district, the Church chose to “withdraw from asking credit for Bible study at every high school.”<sup>115</sup>

By the time the seminary system was put to legal trial, it had branched out to include early-morning and home-study students, and released time was an entrenched enough tradition in Intermountain areas that there was little danger of its dissolution. Brigham Young University and the other surviving schools had also blossomed and no longer needed seminary as justification for their operation.

While Merrill and his contemporaries may have felt that the 1931 decision by the school board was only a temporary fix, it established an important legal precedent for seminary. In the smallest sense, Merrill had delayed the decision for at least a generation. It was forty-seven years before the question was finally settled. The battle was fought on and off in the Salt Lake district, but the growth of the seminary program remained stable elsewhere. Fallout from the crisis, however, would continue to impact Church education until the present. Namely, the episode radically altered the mindset of Church educators for a brief time, which then led to more orthodox standards being established to govern religious education.





T. Edgar Lyon, *center top*. Courtesy Church History Library, © Intellectual Reserve, Inc.

Concerned with losing credit because of the sectarian teaching the classroom, Merrill may have allowed the pendulum to stray too far into secularism. Even during the midst of the crisis, he began taking steps to increase professionalism among religious educators in the Church. To this end, he began inviting prominent scholars of other faiths to teach and lecture to the seminary and institute teachers during their summer sessions. Included among this number were Edgar Goodspeed Jr., William C. Graham, and John T. McNeil.<sup>116</sup> Most of these men came from the University of Chicago, one of the more liberal schools in the nation, and taught some concepts that caused some concern among the

Church hierarchy.<sup>117</sup> During this time, Merrill also sent seminary men to be trained at the University of Chicago's divinity school.<sup>118</sup>

Eventually, the liberal bearing of these professors began to affect Church teachers so much that in 1938, President J. Reuben Clark Jr. visited the teacher's summer school and delivered the classic address "The Charted Course of the Church in Education," which in many ways can be read as a stern rebuke of the rising secularism in Church education. Clark even threatened a return to Church colleges and academies if the trend didn't reverse itself.<sup>119</sup> When he returned from Europe, Merrill was also among the General Authorities who were called upon to bring the Church's seminary teachers back onto more orthodox footings.<sup>120</sup>

The creep of secularism into Church education during Merrill's tenure may be traced to his strong feelings that released time *and* the guarantee of credit were critical to the survival of seminary. In light of the seminary's successful continuance today without the offer of credit, it must be asked, why did Merrill feel so strongly about the retention of seminary credit? There are several possible reasons why he developed this attitude. First, he had gone to great lengths in 1912 to ensure that students enrolled in seminary would receive credit for Bible study and defended it vigorously during the crisis. In addition, there were many indications that the allowance of

seminary credit helped compel educators to support seminary. Writing to T. Edgar Lyon, a seminary teacher in Idaho in 1931, Merrill commented on this issue:

I am a little bit amused at the attitude of your high school principal in preferring that our courses of study remain just as they are. You did not give his reasons, but there is only one reason that I can imagine that he would have any right to have. This is the reason that some few other high school principals have expressed, namely, all the work that first year high school student does should be credit work. Now, since Church History and Doctrine does not receive credit from the high school, there are some principals who prefer that the students for the first year or two take some other than this subject. For this reason, nearly all of our seminaries will find it advisable to have one or more classes the coming year in either the Old or New Testament, in some cases in both.<sup>121</sup>

Finally, Merrill simply believed seminary would be too great a sacrifice without a promise of some school credit. In his report to the state board, he wrote: “But suppose credit be denied and released time be given. If this would not kill the seminary then it would certainly greatly aggravate the conditions the inspector complained of—overloading the student with work.”<sup>122</sup> His desire to retain credit led him to make sacrifices that today seem contrary to the current LDS philosophy of education.

Was credit so vital that such compromises needed to be made? Merrill felt it was. In this judgment, he may have been misguided. When credit for seminary study was abolished in the 1970s, the Church feared a serious drop in seminary enrollments. When the move came, enrollments were not seriously affected, in large measure because of Church action taken to involve local authorities in recruitment and enrollment. In the long term, the move did not seem to have the kind of effect on enrollment that many had feared. From 1976 to 1980, enrollment in the Church’s seminary and institute programs saw a 4.65 percent increase, or a growth of 13,392 students.<sup>123</sup> However, while enrollment remained stable, the long-lasting effect of the lack of credit on class discipline, scholasticism, and engagement can perhaps never be measured.

Even in the light of these developments, Merrill should not be judged too harshly. After all, survival was the order of the day. Merrill’s immediate task was to ensure the continuance of the system, both by changing the curriculum and initiating administrative changes to comply with the wishes of the state board. Such changes included registration taking place in a separate building, photographs of seminary activities not being included in high school yearbooks, and seminary teachers not seeking privileges from public schools that were not already available to

any citizen of the community.<sup>124</sup> In preserving the released-time system, Merrill succeeded overwhelmingly.

### **Merrill's Legacy**

What was at stake in 1930? The potentially fatal blows of the Williamson report—unfortunately struck at a time when the Church was financially reeling from the effects of the Great Depression—could have radically altered the course of Church education had Merrill, the “father” of the released-time seminary program, not taken decisive and vigorous action to ensure his child could grow to full maturity. Today, released-time seminary is the most effective method of providing religious education for Latter-day Saint youth.

Had released-time seminary been abolished in 1930, it is likely the Church could not have returned to the academy system, nor would there have been as compelling reasons for the Church to keep operating BYU. Merrill's actions, combined with the worsening economic situation that delayed school boards from forcing the seminary issue, may be credited for saving both released-time programs and remaining Church colleges. Today Merrill's name is not widely known, even within Church circles. But he stands as a quiet hero of Church education—the right man, in the right place, at the right time.

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1. Primary sources for this study were drawn mainly from the Joseph F. Merrill Collection and the Franklin S. Harris Brigham Young University President's Records located in L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University, Provo, Utah. Both collections have been made available for public use in the last few years and contain a rich amount of material dealing with early twentieth-century topics. Other vital resources for this study include the records of the state board from this period, kept at the Utah State Office of Education. My thanks to Twila Affleck at the Utah State Office of Education for her generous help in obtaining and copying these records. Other important materials were found in the Frederick Buchanan Papers at the University of Utah. In addition to these sources, the records of the BYU Centennial Committee at BYU and William E. Berrett's CES History Resource Files, 1899–1985 at the Church History Library in Salt Lake City were immensely helpful. Other materials were taken from the Journal History of The Church of Jesus Christ of Latter-day Saints;

Kenneth G. Bell, “Adam S. Bennion: LDS Superintendent of Education, 1919–1928” (master’s thesis, Brigham Young University, 1969); and Scott C. Esplin, “Education in Transition: Church and State Relationships in Utah Education, 1888–1933” (PhD diss., Brigham Young University, 2006). During the writing process, assistance from Bruce Lake, a former assistant supervisor of Church education, was helpful in providing context. In addition, this study has benefited from the careful guidance and supervision of many generous colleagues, most notably Alan Parrish, Mary Jane Woodger, Scott C. Esplin, and Richard E. Bennett.

2. Armand L. Mauss, *The Angel and the Beehive: The Mormon Struggle with Assimilation* (Urbana: University of Illinois Press, 1994), 22.

3. Enrollment at Church academies spiked at just above six thousand high school students for the 1921–22 school year and then fell rapidly to well below just one thousand a decade later. See Milton L. Bennion, *Mormonism and Education* (Salt Lake City: Church Department of Education, 1939), 198.

4. See Leonard J. Arrington, “The Founding of the LDS Institutes of Religion,” *Dialogue: A Journal of Mormon Thought* 2 (Summer 1967): 137–47.

5. Richard C. McMillan, *Religion in the Public Schools: An Introduction* (Macon, Ga.: Mercer University Press, 1984), 142.

6. R. Murray Thomas, *God in the Classroom: Religion and America’s Public Schools* (Westport, Conn.: Praeger Publishers, 2007), 190.

7. Nearly every history of released time cites the program in Gary, Indiana, as the first instance of released time on a practical level, though the program started by Merrill at Granite High School predates it by two years. This may be because the Indiana program was the first initiated on a larger scale, with 619 students, while the program in Utah was much smaller, initially involving only 70 students. See Thomas, *God in the Classroom*, 190, and “History of Granite Seminary,” comp. Charles Coleman and Dwight Jones, unpublished manuscript, 1933, Church History Library, The Church of Jesus Christ of Latter-day Saints, Salt Lake City.

8. John Clifton Moffitt, *A Century of Service: A History of the Utah Education Association* (Salt Lake City: Utah Education Association, 1960), 53, 63.

9. Joseph F. Merrill, “A New Institution in Religious Education,” *Improvement Era* 41 (January 1938): 12, 55–56. Thomas G. Alexander, *Mormonism in Transition: A History of the Latter-day Saints, 1890–1930* (Urbana: University of Illinois, 1986), 168, 347. See also Casey Paul Griffiths, “The First Seminary Teacher,” *The Religious Educator* 9, no. 3 (2008): 115–30.

10. William E. Berrett, *A Miracle in Weekday Religious Education* (Salt Lake City: Salt Lake Printing Center, 1988), 29.

11. Merrill, “New Institution,” 55.

12. Berrett, *Miracle*, 29–31.

13. James B. Allen and Glen M. Leonard, *The Story of the Latter-day Saints*, 2d ed. (Salt Lake: Deseret Book, 1992), 504.

14. Berrett, *Miracle*, 37.

15. Allen and Leonard, *The Story of the Latter-day Saints*, 504–5.

16. Lowry Nelson to Franklin S. Harris, March 8, 1929, BYU Centennial Committee Records, Perry Special Collections.

17. Ernest L. Wilkinson, ed., *Brigham Young University: The First One Hundred Years*, 4 vols. (Provo, Utah: Brigham Young University Press, 1975), 2:73.

18. Joseph F. Merrill, in *Ninety-eighth Annual Conference of The Church of Jesus Christ of Latter-day Saints* (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 1928), 38.

19. U.S. Bureau of the Census, 1920 Census for Eureka, Juab County, Utah, available at Family History Library, The Church of Jesus Christ of Latter-day Saints, Salt Lake City. For Williamson's religious background, see Frederick S. Buchanan, "Masons and Mormons: Released-Time Politics in Salt Lake City, 1930-56," *Journal of Mormon History* 19, no. 1 (1993): 77.

20. Berrett, *Miracle*, 43.

21. "Prof Adams Will Go to Park City," *Eureka Reporter*, May 31, 1912.

22. "Assignment of Tintic School District Teachers Completed," *Eureka Reporter*, September 10, 1915.

23. Utah State School Board, Minutes, June 19, 1926, Utah State Office of Education; copies in author's possession.

24. Utah State School Board, Minutes, December 21, 1926.

25. "LDS Seminary Will Soon Be Built," *Eureka Reporter*, December 26, 1929, 1.

26. "Seminaries of LDS Church Put under Study," *Salt Lake Tribune*, January 9, 1930, 1, 14.

27. "Seminaries of LDS Church Put under Study," 14.

28. "Seminaries of LDS Church Put under Study," 14.

29. "Seminaries of LDS Church Put under Study," 14.

30. "Seminaries of LDS Church Put under Study," 14.

31. "Seminaries of LDS Church Put under Study," 14.

32. "Seminaries of LDS Church Put under Study," 14.

33. "Seminaries of LDS Church Put under Study," 14.

34. "Inspector Hits LDS Seminaries," *Deseret News*, January 9, 1930, 1.

35. Joseph F. Merrill to Franklin S. Harris, May 2, 1932, Franklin S. Harris Papers, Perry Special Collections.

36. James R. Clark, "Church and State Relationships in Education in Utah" (PhD diss., Utah State University, 1958), 324.

37. William E. Berrett, CES History Resource Files, 1899-1985, Church History Library.

38. Joseph F. Merrill to T. N. Taylor, February 21, 1929, Harris Papers, Perry Special Collections.

39. Franklin S. Harris to John A. Widtsoe, March 2, 1929, Harris Papers.

40. Franklin S. Harris to M. C. Merrill, April 29, 1929, Harris Papers.

41. Joseph F. Merrill to George A. Brimhall, July 3, 1929, Harris Papers, emphasis added.

42. Joseph F. Merrill to Franklin S. Harris, February 25, 1929; May 7, 1929; June 8, 1929; etc., Harris Papers. Setting up, strengthening, and ensuring a strong, professional Department of Religious Education was one of the major works of the Merrill administration. Of the remaining correspondence between Joseph F. Merrill and Franklin S. Harris, a large number of letters addressed this subject.

43. Joseph F. Merrill to Franklin S. Harris, January 8, 1930, Harris Papers.

44. "Head of System Answers Attack upon Seminaries," *Deseret News*, January 9, 1930, 1.

45. "Head of System Answers Attack," 1.

46. "Head of System Answers Attack," 1.



47. D. H. Christensen, "Seminary Students Not Deficient in Scholarship," *Deseret News*, January 21, 1930, 5.
48. Church General Board of Education, Minutes, February 5, 1930, Church History Library; copies in author's possession.
49. See T. Earl Pardoe, *The Sons of Brigham* (Provo, Utah: Brigham Young University Alumni Association, 1969), 223–24.
50. Church General Board of Education, Minutes, March 5, 1930.
51. Wilkinson, *Brigham Young University*, 2:286.
52. Joseph F. Merrill to Franklin S. Harris, May 7, 1929, Harris Presidential Papers, cited in Wilkinson, *Brigham Young University*, 2:219.
53. Wilkinson, *Brigham Young University*, 2:287.
54. "Probe Committee Splits on LDS Seminaries," *Deseret News*, March 24, 1930, 1; "Groups Splits on Seminary Work Probe," *Salt Lake Tribune*, March 25, 1930, 1. The author is indebted to Frederick Buchanan for the religious affiliations of the committee, see Buchanan, "Masons and Mormons," 78.
55. Utah State School Board, Minutes, March 24, 1930.
56. "Group Splits on Seminary Probe," *Salt Lake Tribune*, March 25, 1930, 1.
57. "Church Leaders Protest Battle on Seminaries," *Deseret News*, April 7, 1930, 1.
58. "Attitude of Educators toward Religious Education," *Deseret News*, April 26, 1930, 2.
59. "Church Leaders Protest Battle on Seminaries," *Deseret News*, April 7, 1930, 1.
60. Utah State School Board, Minutes, May 4, 1930.
61. The Church of Jesus Christ of Latter-day Saints, *A Reply to Inspector Williamson's Report to the State Board of Education on the Existing Relationship between Seminaries and Public High Schools in the State of Utah and Comments Thereon by a Special Committee of the Board*, 4, issued as a letter to the Utah State Board of Education, May 3, 1930, Buchanan Collection, Special Collections, Marriott Library, University of Utah, Salt Lake City, hereafter referred to as the *Merrill Report*. While it is likely several figures authored this report, it was sent under Merrill's signature and he should be considered, if not its sole creator, to at least be responsible for it. For the sake of clarity and so as to not confuse this report with the Williamson report, I will refer to the words in this report as Merrill's, knowing other unidentified Church officials may have also had a hand in writing them.
62. *Merrill Report*, 5–6.
63. *Merrill Report*, 8.
64. *Merrill Report*, 7.
65. *Merrill Report*, 7.
66. *Merrill Report*, 8.
67. *Merrill Report*, 9.
68. *Merrill Report*, 11.
69. *Merrill Report*, 11.
70. *Merrill Report*, 17–18. Merrill quotes an article written by Myron C. Settle, titled "Weekday Church Schools from Coast to Coast," which appeared in the July 1929 issue of the *International Journal of Religious Education*.
71. *Merrill Report*, 19–20.
72. *Merrill Report*, 21–22.

73. *Merrill Report*, 23–24.
74. Utah State School Board, Minutes, May 4, 1930.
75. Franklin S. Harris to Joseph F. Merrill, May 6, 1930, Harris Papers.
76. Church General Board of Education, Minutes, May 7, 1930.
77. Utah State School Board, Minutes, June 28, 1930; “Status of Church Seminaries Seek Court Decision,” *Deseret News*, June 28, 1930, 1.
78. Utah State School Board, Minutes, June 28, 1930.
79. Church Board, Minutes, July 2, 1930.
80. “LDS Church to Wage Seminary Fight to Finish,” *Salt Lake Telegram*, July 3, 1930, 6.
81. Buchanan, “Masons and Mormons,” 79.
82. Daniel Harrington, “A Chapter in the History of Utah Schools,” *Improvement Era* 33 (September 1930): 763.
83. Joseph F. Merrill, “The Need of Christian Education,” *Is Faith Reasonable: A Series of Radio Addresses Delivered Sunday Evenings, April 5th to September 27th, Inclusive*, 1931.
84. Ezra C. Dalby, *Land and Leaders of Israel: Lessons in the Old Testament* (Salt Lake City: Deseret Book, 1930), ix.
85. James R. Smith, *The Message of the New Testament* (Salt Lake City: Deseret Book, 1930), vii.
86. *Outlines in Religious Education for Use in the Schools and Seminaries of The Church of Jesus Christ of Latter-day Saints: Old Testament* (Salt Lake City: Deseret Book, 1928).
87. *Outlines in Religious Education for Use in the Schools and Seminaries of The Church of Jesus Christ of Latter-day Saints: New Testament* (Salt Lake City: Deseret Book, 1925).
88. Church Board, Minutes, December 3, 1930. It would seem that eventually Joseph Fielding Smith’s views prevailed in this particular case. Under the direction of the Church board, new texts for both the Old and New Testaments were published to replace the 1930 textbooks, both of which included discussions of the topics that had been deleted in their immediate predecessors. The new texts were published in 1937 and 1938 and enjoyed a much longer life in the seminary system than the 1930 texts. See J. A. Washburn, *Story of the Old Testament* (Salt Lake City: Church Department of Education, 1937); and Obert C. Tanner, *The New Testament Speaks* (Salt Lake City: The Department of Education of The Church of Jesus Christ of Latter-day Saints, 1935).
89. Church Board, Minutes, November 5, 1930.
90. “Closing of LDS College Explained,” *Deseret News*, January 8, 1930, 1.
91. Church Board, Minutes, December 26, 1930. While LDS College closed in 1931, under the leadership of Faramorz Y. Fox, the business department of the school was allowed to remain open and subsequently became LDS Business College. See Esplin, “Education in Transition,” 217.
92. “Church Extends Programs at Three Seminaries in SL to Make Up for LDSC Closing,” *Deseret News*, August 28, 1931, 1, 10, emphasis added. See also Buchanan, “Masons and Mormons,” 81.
93. Utah State School Board, Minutes, June 27, 1931.
94. Utah State School Board, Minutes, June 27, 1931.
95. Utah State School Board, Minutes, June 27, 1931.

96. These figures are calculated by dividing \$60,000 by one-quarter of the total number of seminary students at the time (to account for only one grade). Seminary enrollment statistics taken from Richard R. Lyman, "The Church in Action," *Improvement Era* 33 (June 1930): 534–37.

97. Utah State School Board, Minutes, June 27, 1931.

98. "State Retains Credit Rating of Seminaries," *Salt Lake Tribune*, September 24, 1931, 22.

99. Buchanan, "Masons and Mormons," 80.

100. "State Retains Credit Rating of Seminaries," *Salt Lake Tribune*, September 24, 1931, 22.

101. Utah State School Board, Minutes, October 26, 1931.

102. Utah State School Board, Minutes, April 28, 1933.

103. See Richard W. Sadler, ed., *Weber State College: A Centennial History* (Salt Lake City: Publishers Press, 1988); Albert C. T. Antrei and Allen D. Roberts, *A History of Sanpete County* (Salt Lake City: Utah State Historical Society, 1999); and Douglas D. Alder and Karl F. Brooks, *History of Washington County: From Isolation to Destination* (Salt Lake City: Utah State Historical Society, 1996).

104. "Teacher Plays Seminaries at UEA Sessions," *Deseret News*, October 29, 1932, 1.

105. Merrill was another in a long line of Commissioners of Church Education who also served as Apostles, among them David O. McKay, John A. Widtsoe, and more recently, Neal A. Maxwell, Jeffrey R. Holland, and Henry B. Eyring.

106. See Buchanan, "Masons and Mormons," 77 n. 30.

107. McKay played a crucial role in retaining the surviving Church schools during the Depression. See Esplin, "Education in Transition," 208–15.

108. Joseph F. Merrill to Franklin S. Harris, January 6, 1934, Harris Papers.

109. Joseph F. Merrill to Franklin L. West, April 21, 1948, Merrill Papers, Special Collections, University of Utah.

110. *Zorach v. Clauston*, 343 U.S. 306 (1952), available online at Cornell University Law School, Legal Information Institute, Supreme Court collection, [http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0343\\_0306\\_ZO.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0343_0306_ZO.html).

111. Buchanan, "Masons and Mormons," 111.

112. Berrett, *Miracle*, 100–101.

113. Berrett, *Miracle*, 188.

114. Buchanan, "Masons and Mormons," 111.

115. Berrett, *Miracle*, 188.

116. Wilkinson, *Brigham Young University*, 2:288.

117. Goodspeed, perhaps the most eminent of the guest lecturers, is a good example of the unorthodox views taught at the divinity school. In his published translation of the New Testament, he calls into question the authorship of nine different New Testament books, among them, Ephesians, 1 and 2 Timothy, and 1 and 2 Peter. See Edgar J. Goodspeed, *The Goodspeed Parallel New Testament* (Chicago: University of Chicago Press, 1943).

118. See Russel B. Swensen, "Mormons at the University of Chicago Divinity School: A Personal Reminiscence," *Dialogue: A Journal of Mormon Thought* 7 (Summer 1972): 37–47. See also T. Edgar Lyon Jr., *T. Edgar Lyon: A Teacher in Zion* (Provo, Utah: Brigham Young University Press, 2002), 123–43. Lyon's biographer suggests that the reason why such a liberal school was invited to train and address

the seminary and institute men was because no other schools in the country would accept Latter-day Saints at the time. See Lyon, *Teacher in Zion*, 132.

119. J. Reuben Clark Jr., "The Charted Course of the Church in Education," in *Educating Zion*, ed. John W. Welch and Don E. Norton (Provo, Utah: BYU Studies, 1996), 13. For an excellent discussion on the background of Clark's address, see Scott C. Esplin, "Charting the Course: President Clark's Charge to Religious Educators," *Religious Educator* 7, no. 1 (2006): 103–19.

120. Boyd K. Packer, "Seek Learning Even by Study and Also by Faith," in *That All May Be Edified* (Salt Lake City: Bookcraft, 1982), 44.

121. Joseph F. Merrill to T. Edgar Lyon, May 9, 1931, T. Edgar Lyon Collection, Perry Special Collections.

122. *Merrill Report*, 24.

123. *Merrill Report*, 188–89.

124. Berrett, *Miracle*, 45.

# The *Frontier Guardian*

## Exploring the Latter-day Saint Experience at the Missouri, 1849–1851

Susan Easton Black

As the largest Mormon primary source from 1849 to 1851, the *Frontier Guardian* is crucial to understanding the Latter-day Saint experience at the Missouri River. Until now, historians have extracted only small sections of the paper, such as marriage announcements, obituaries, and advertisements,<sup>1</sup> because of the *Guardian's* size. Although it is only four volumes, the newspaper contains eighty-one issues, each spanning four pages in length and divided into six columns. This translates into roughly four thousand single-spaced pages on 8.5" x 11" paper. Fortunately, the recent publication *The Best of the Frontier Guardian* along with its searchable DVD-ROM of all eighty-one issues will help researchers explore the Mormon experience in Pottawattamie County, Iowa.

As the *Guardian's* editor in chief, Elder Orson Hyde believed the newspaper was an essential tool to help the region's Saints remain focused on their westward trek. Although he occasionally visited Church branches, Hyde knew regular communication between ecclesiastical leaders and members was imperative. Since ecclesiastical leaders previously had used newsprint to connect with members in Missouri, Ohio, Illinois, and England, he employed the same medium in Iowa.

Hyde looked to the first five Church periodicals—*The Evening and the Morning Star*, *Latter Day Saints' Messenger and Advocate*, *Elders' Journal of the Church of Latter Day Saints*, *Times and Seasons*, and *Millennial Star*—as examples for the *Guardian*. He utilized this newspaper foremost

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1. See Lyndon W. Cook, comp., *Death and Marriage Notices from the "Frontier Guardian," 1849–1852* (Orem, Utah: Center for Research of Mormon Origins, 1990).



as a Church oracle, publishing First Presidency epistles, doctrinal treatises, and news and letters from the Salt Lake Valley before printing local news, poetry, wise sayings, or fictional stories.

This article offers a brief history of Mormon newspapers in order to place the *Guardian* in context, an account of Hyde's appointment as the presiding authority over the Pottawattamie area, then a historical overview of the *Guardian*, and finally an analysis of its contents to introduce readers to this important source.

### History of Latter-day Saint Newspapers

The first Church newspaper was *The Evening and the Morning Star*, edited by William W. Phelps and published in Independence, Missouri. Religious doctrine, history, hymns, instruction, revelation, and missionary letters kept the Saints informed. From June 1832 to July 1833, this eight-page, double-columned paper was applauded by its Latter-day Saint readership as informative and inspiring. However, a mob soon destroyed the press and what it believed was the last issue of the *Star*. In some respects, the paper survived the attack. In distant Kirtland, Ohio, under the able editorship of Oliver Cowdery, issues of the *Star* were printed in 1833. Cowdery reprinted previous issues, believing they had not had a wide circulation among the eastern Saints. He also ended up adding ten issues of his own to this Ohio edition. Differences between the final issues and the preceding ones were the inclusion of a commentary describing the problems faced by the Saints in Missouri, a new sixteen-page format, and fewer grammatical errors.<sup>2</sup>

In 1834, the *Star* was succeeded by the *Latter Day Saints' Messenger and Advocate*, a paper whose very name suggested its purpose—a messenger of the restored gospel and an advocate of true principles. Under Cowdery's leadership, the first issues of the *Messenger and Advocate* were printed from October 1834 to May 1835. Cowdery was replaced by John Whitmer and Warren Cowdery, then in February and March 1837 by Joseph Smith and Sidney Rigdon. Although the paper had multiple editors, neither its purpose nor its tenor changed. In a sixteen-page, double-column format, the paper contained selected doctrinal addresses, letters from traveling missionaries, inspirational poetry, hymns, minutes of Church conferences, and local events, such as marriages and deaths. The newspaper reported 8 births, 242 marriages, and 195 deaths. The new twist that did not mirror

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2. See Ronald D. Dennis, "The Evening and the Morning Star," in *Encyclopedia of Mormonism*, ed. Daniel H. Ludlow, 4 vols. (New York: Macmillan, 1992): 2:477.



Steel engraving by Frederick Piercy of the Missouri River in Council Bluffs, Iowa, c. 1850s. Courtesy Church History Library.

old issues of the *Star* was the inclusion of an annual index printed in the last issue of each volume.<sup>3</sup>

In late 1837, nearly four months after the final issue of the *Messenger and Advocate*, another Mormon newspaper came into existence. The *Elders' Journal of the Church of Latter Day Saints*, with Joseph Smith as editor and Thomas B. Marsh as publisher, began publication in Kirtland. Although the concept of an elders' journal had merit—to keep traveling elders informed of Church business—after only two issues (October–November 1837), printing of the paper stopped. Its small run in Kirtland was repeated in Far West, Missouri, where two additional issues were printed, before the paper again ceased publication.<sup>4</sup>

In many respects, the next paper, the *Times and Seasons*, was much more successful than other Church periodicals. The print run of 135 issues symbolized the success. Similar to its predecessors, the sixteen-page, double-column paper contained Church doctrine, history, local events, missionary letters, minutes of meetings, and general contemporary news.

3. See J. Leroy Caldwell, “Messenger and Advocate,” in Ludlow, *Encyclopedia of Mormonism*, 2:892.

4. See Kirtland Elders' Quorum Record, 1826–1844, December 6, 1837, Church History Library, Family and Church History Department, The Church of Jesus Christ of Latter-day Saints, Salt Lake City.

The paper was printed monthly in Nauvoo between November 1839 and October 1840. After that it became a biweekly publication, appearing on the first and fifteenth of each month through February 15, 1846. The first editors were Don Carlos Smith and Ebenezer Robinson. In 1842, Joseph Smith became the next editor. Under his editorship, documents such as the translation and facsimiles of the Book of Abraham and the Wentworth Letter were published. Between late 1842 and May 1844, John Taylor and Wilford Woodruff edited the paper. Then from June 1844 until mid-February 1846, Taylor worked as the sole editor.<sup>5</sup>

The *Latter-day Saints' Millennial Star* was the fifth newspaper to be recognized as an official organ of the Church. The *Star* began in England in 1840 with Parley P. Pratt as editor and continued publication until 1970. Pratt unabashedly announced that the purpose of the *Star* was to proclaim the restoration of the gospel of Jesus Christ and to gather into one fold his sheep.

To accomplish this far-reaching purpose, Pratt and his many subsequent editors printed doctrinal addresses of Church leaders and excerpts of the history of the Church. The inclusion of conference minutes, missionary letters, local news, and poems mirrored the content of other Church periodicals.<sup>6</sup> The dramatic difference with the *Star* was the inclusion of emigration statistics, news of the Perpetual Emigrating Fund, ship departures, and so forth. By including similar information about emigration train rosters and departures, the *Frontier Guardian* mirrored the *Star* more closely than any other early Mormon periodical.

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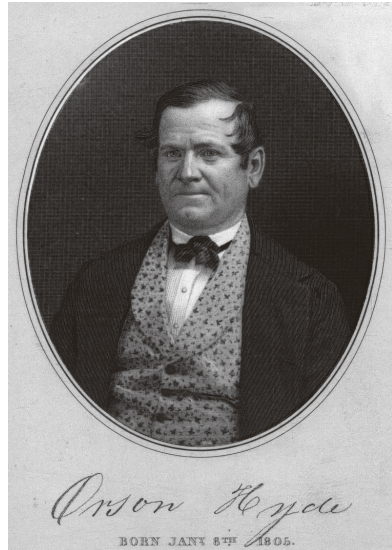
5. See Reed C. Durham Jr., "Times and Seasons," in Ludlow, *Encyclopedia of Mormonism*, 4:1479–80; Robert T. Bray, "'Times and Seasons': An Archaeological Perspective on Early Latter Day Saints Printing," *Historical Archaeology* 13 (1979): 53–119; Parry D. Sorensen, "Nauvoo Times and Seasons," *Journal of the Illinois State Historical Society* 55 (1962): 117–35. The *Nauvoo (IL) Times and Seasons* should not be confused with the *Nauvoo (IL) Neighbor*, a weekly newspaper published from May 3, 1843, to October 29, 1845, and edited by John Taylor. This paper was not an official Church publication but rather was a replacement for the *Nauvoo (IL) Wasp*, which had begun in April 1842. The *Neighbor* was not altogether without Latter-day Saint news, however. Taylor printed articles about conflicts between the Saints and what he perceived as their enemies at all levels of society. See Darwin L. Hayes, "Nauvoo Neighbor," in Ludlow, *Encyclopedia of Mormonism*, 3:999.

6. See Stanley A. Peterson, "Millennial Star," in Ludlow, *Encyclopedia of Mormonism*, 2:906; James P. Hill, "Story of the Star," *Millennial Star* December 1970, 10–13.

## Orson Hyde and the *Frontier Guardian*

In June 1844, Orson Hyde was in Washington, D.C., presenting a memorial summarizing the outrages of the state of Missouri against Latter-day Saints. On June 27, “he felt very heavy and sorrowful in spirit, and knew not the cause. . . . He retired to the further end of the hall alone, and walked the floor; tears ran down his face. . . . He never felt so before, and knew no reason why he should feel so then.”<sup>7</sup> Days later he learned of the Prophet’s martyrdom, which he believed had caused this sorrow. Although the loss of Joseph Smith weighed heavily on Hyde for many years, he spoke optimistically of the Church’s destiny: “I will prophesy that instead of the work dying, it will be like the mustard stock that was ripe, that a man undertook to throw out of his garden, and scattered seed all over it, and next year it was nothing but mustard. It will be so by shedding the blood of the Prophets—it will make ten saints where there is one now.”<sup>8</sup>

After his return to Nauvoo, Hyde saw the fulfillment of his prophesy. New converts arrived almost daily in the community, eager to help build up the Church. The Saints needed a shepherd to assist them as they prepared to continue their journey to a westward Zion. Although he wanted to follow Brigham Young to the West in 1846, Hyde accepted a call to stay behind in Nauvoo to complete and dedicate the Nauvoo Temple and encourage even the most reluctant Saints to push westward. History repeated itself when Young asked Hyde to fulfill similar duties in Iowa two years later. Rather than lasting only a



Orson Hyde served as editor in chief of the *Frontier Guardian*, president of the Quorum of the Twelve, and president of the Church in Kanesville. He believed the *Guardian* was essential to helping Saints in Iowa stay focused on their westward trek to the Salt Lake Valley. Courtesy Church History Library.

7. Joseph Smith Jr., *The History of the Church of Jesus Christ of Latter-day Saints*, ed. B. H. Roberts, 2nd ed. rev., 7 vols. (Salt Lake City: Deseret Book, 1971), 7:132.

8. Smith, *History of the Church*, 7:198.

few months, as had his assignment in Nauvoo, Hyde's work in Iowa lasted roughly four years.<sup>9</sup> Mormon emigration, establishing temporary settlements, organizing the Church structure within those settlements, keeping peace with the Native Americans, and bolstering the faith of the Saints in this frontier setting were but a few of his main responsibilities. Such responsibilities would have been difficult for a team of people, let alone one man. But Hyde had the organizational skills and the "loyalty and devotion to Brigham Young" needed to keep the Iowa Saints focused on their westward journey.<sup>10</sup>

Young had chosen Hyde to gather the scattered Saints of Iowa because he was familiar with the land. Hyde had traveled up and down the mid-Missouri Valley, speaking to Saints scattered throughout the small communities. He was a father figure to many as he offered encouragement and advice to those headed west. He also had experience settling Church business and aiding migration. As historian Richard E. Bennett said, "With Young and most of the authorities now in Salt Lake Valley, it was once again left to Hyde, as had been done earlier in Nauvoo, to complete unfinished business, settle conflicts and defections, and facilitate migrations westward."<sup>11</sup> Hyde accomplished much of his work through the



Thomas Leiper Kane befriended the Latter-day Saints and became a confidant to Brigham Young. Orson Hyde named the Pottawattamie County Mormon settlement Kanesville in honor of Kane. In 1853, Kanesville was renamed Council Bluffs. Courtesy L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.

9. See Howard H. Barron, *Orson Hyde: Missionary, Apostle, Colonizer* (Bountiful, Utah: Horizon, 1977), 163, 178–95.

10. Marvin S. Hill, "An Historical Study of the Life of Orson Hyde, Early Mormon Missionary and Apostle from 1805–1852" (master's thesis, Brigham Young University, 1955), 3.

11. Richard E. Bennett, *Mormons at the Missouri, 1846–1852: "And Should We Die..."* (Norman: University of Oklahoma Press, 1987), 220. The *Davenport (IA) Gazette* pronounced Hyde the successor of Joseph Smith: "Orson Hyde, it is rumored, is about to become the successor of Joe Smith. Whether he claims the leadership by revelation from heaven, does not appear. But no doubt he will appeal to their superstitions." "Mormonism," *Davenport Gazette*, May 1, 1845, 2.



*Frontier Guardian*. On February 7, 1849, its first issue rolled off the press as an official Church publication.

### Overview of the *Frontier Guardian*

Assuming his position as editor, Hyde confessed, "It is with a trembling hand and a faltering knee that we step forward to our seat in the Editorial Chair."<sup>12</sup> Nevertheless, Hyde frequently used the *Guardian* to vent his frustrations and disappointments, and an overview of the paper says as much about the editor as it does about the paper itself.

**Volume One.** As the editor of a newspaper that would be distributed in most of the twenty-six states of the Union and in England, Wales, Ireland, France, Italy, and Denmark, it was Hyde's "ardent wish, and sincere prayer that the words we employ, and thoughts we record may be the dictation of that Spirit, that is destined to bless the world, make an end of sin and triumph gloriously over all things." To accomplish the ambitious goal, he wrote a prospectus that outlined the paper's objectives: (1) to conspicuously display principles of the gospel, (2) to maintain a "healthy moral atmosphere," (3) to aid the education of youth, (4) to avoid political interference, (5) to appeal to all classes of citizens, and (6) to advertise businesses and prices that would help the Saints emigrate.<sup>13</sup>

On March 7, 1849, Hyde's counselor George A. Smith encouraged Church members to subscribe to the paper: "Every Elder should have the *Guardian* by him; from it he can learn the principles, which it is his duty and calling to communicate to his fellow men." He added, "Every farmer [also] should take the *Guardian*. Its matter will instruct the young and inexperienced, in relation to their agricultural pursuits."<sup>14</sup>

Confident that Smith's directives would lead to increased subscriptions, Hyde announced on March 21 that the *Guardian* would become a weekly newspaper.<sup>15</sup> Yet such preparations never materialized. To help fill the *Guardian*'s pages, Hyde depended on mail carriers for newspapers from other cities. In this era, newspapers frequently reprinted stories from other publications; when carriers failed to bring the needed papers, Hyde

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The *Bloomington Iowa Democratic Enquirer* editorialized, "The celebrated Orson Hyde, by far the most influential man in the Mormon church." "Mormon Vote," *Iowa Democratic Enquirer*, August 26, 1846, 2. The *Keokuk (IA) Dispatch* printed, "Orson Hyde is another of the Twelve, and head of the Colony at Council Bluff." "The Mormon Bribery," *Keokuk Dispatch*, September 16, 1848, 2.

12. "To Our Readers," *Frontier Guardian*, February 7, 1849, p. 2, col. 1.

13. "To Our Readers."

14. "To the Saints in Iowa," *Frontier Guardian*, March 7, 1849, p. 2, col. 5.

15. Orson Hyde, "Prospectus," *Frontier Guardian*, March 21, 1849, p. 4, col. 6.

could not publish a weekly newspaper because of lack of material.

This dilemma, exacerbated by the need of an expert printer, caused Hyde much duress until he hired printer John Gooch Jr. in May 1849.<sup>16</sup> With Gooch in place, Hyde was relieved from the daily work at the *Guardian* office to attend to ecclesiastical matters. However, when Gooch printed statements such as “The lack of Editorial matter in this number must be attributed to the continued absence of the Editor,” Hyde returned.<sup>17</sup> On December 12, the paper reported the hiring of Daniel MacIntosh<sup>18</sup> as an assistant editor to help shoulder the responsibility.<sup>19</sup>

Hyde hoped MacIntosh could make the *Guardian* a weekly publication, yet Hyde continued to worry about the late mail. He solicited friends, even from abroad, to send him “a few papers when you have the chance.”<sup>20</sup> In addition, he also asked for money to help defray the expense of printing the *Guardian* because many subscribed, but few paid a full subscription rate. Hoping to resolve what had become a personal financial drain to him, on December 12 Hyde announced a change in delivery: instead of distributing the papers to



George A. Smith was a member of the Quorum of the Twelve and a counselor to Orson Hyde in the Kanesville presidency. Courtesy Church History Library.

16. John Gooch Jr. was born in Concord, Massachusetts, worked as a printer on the *Frontier Guardian*, ran a boarding house, sold building lots, and journeyed to the Salt Lake Valley in 1852. See the annotated list of people mentioned in the newspaper on the *Frontier Guardian* DVD-ROM. Gooch is first listed as the printer of the *Guardian* on page 2 of the May 30, 1849, issue.

17. “The lack of editorial matter . . .,” *Frontier Guardian*, October 3, 1849, p. 2, col. 1.

18. Daniel MacIntosh served as an agent and editor of the *Frontier Guardian*. See the annotated list of agents mentioned in the newspaper on the *Frontier Guardian* DVD-ROM.

19. Daniel MacIntosh, “Response,” *Frontier Guardian*, December 12, 1849, p. 2, col. 1. MacIntosh’s name was spelled several different ways in the newspaper.

20. “Request,” *Frontier Guardian*, November 14, 1849, p. 2, col. 4.

subscribers through an agent, he dropped them off at the individual post offices where subscribers could retrieve them and pay their postage.<sup>21</sup> Then he asked that commodities be brought, without hope of compensation, to the *Guardian* office. Hyde specifically requested “pork, beef, . . . cash or California Gold Dust” and “10,000 feet good lumber at \$2[.]00 per hundred. . . . Besides cheese, eggs, chickens.”<sup>22</sup>

**Volume Two.** On February 6, 1850, Hyde boasted that one year had lapsed since the *Guardian* first came off the press and that it had never “been delayed an hour behind its regular time.” He expressed gratitude to printer John Gooch, “whose long and bony fingers can pick up type as fast as a chicken can pick up corn.” Then, in salesmanlike fashion, Hyde asked, “Who, among the Saints, will raise up a family of children without giving them education, the bible, and the *Guardian*?” “You who feel too poor to subscribe for the *Guardian*, just ask yourselves how much money you pay out for comparatively useless things.”<sup>23</sup> He also invited loyal subscribers to attend a printer’s banquet, with the proceeds benefiting the *Guardian* staff. Although the banquet was profitable, the financial woes of the paper remained apparent.<sup>24</sup> Hyde wrote, “A failure to give notice of a wish to discontinue the paper at the expiration of the term subscribed for, will be considered as an engagement for the next year,” and “Advertisements not marked on the copy for a [definite] period, or a distinct number of insertions, will be continued until ordered out, and payment exacted accordingly.”<sup>25</sup> Believing this fiscal policy would solve the money problems, Hyde left Kanesville in June for the Salt Lake Valley at Brigham Young’s request.<sup>26</sup>

In Hyde’s absence, Gooch and MacIntosh published the *Guardian* as usual. Although neither held a Church leadership position, they continued Hyde’s clarion call to repent. Using the *Guardian*, they rebuked those who entertained company on Sunday and claimed that “idleness [was] a crime

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21. “To Our Agents,” *Frontier Guardian*, December 12, 1849, p. 2, col. 3.

22. “Wanted in Exchange for the *Guardian*,” *Frontier Guardian*, November 14, 1849, p. 3, col. 4; “Wanted on Subscription for the *Guardian*,” *Frontier Guardian*, September 5, 1849, p. 2, col. 1.

23. “Punctuality,” *Frontier Guardian*, February 6, 1850, p. 2, col. 3; “Question . . .,” *Frontier Guardian*, February 6, 1850, p. 2, col. 3; “Subscribe for the *Guardian*,” *Frontier Guardian*, February 6, 1850, p. 2, col. 4.

24. “Printers Banquet,” *Frontier Guardian*, February 20, 1850, p. 2, col. 6.

25. “A failure to give notice . . .,” *Frontier Guardian*, March 6, 1850, p. 2, col. 3.

26. “It is expected that Elder Hyde . . .,” *Frontier Guardian*, June 26, 1850, p. 2, col. 3.



Original masthead of the *Frontier Guardian*.

next akin to stealing.”<sup>27</sup> To James Allred, president of the Pottawattamie high council, such unsolicited advice overstepped Gooch and MacIntosh’s ecclesiastical bounds. Allred insisted that columns in the *Guardian* be made available for his advice. Gooch and MacIntosh hesitated before printing one brief statement by Allred: “It was not wisdom for the Saints to go forth in the dance” before they pray, help the poor, and pay tithing.<sup>28</sup>

Another peculiarity of the Gooch and MacIntosh publishing efforts was their multiple requests for remuneration. For example, they wrote in one issue: "Wanted—Flour, meal, . . . to keep the printers from going hungry. Don't forget the cash to buy clothing."<sup>29</sup> After Gooch and MacIntosh had used such tactics for months, some readers questioned Hyde's judgment in giving the two men responsibility for the paper. Others wondered whether Hyde would return to Kanesville and reclaim his rightful place as editor in chief.

When Hyde returned in November, a great celebration ensued. Following the festivities, Hyde went to the Guardian office and resumed his position. He implemented changes to the paper and reduced subscription rates to one dollar per year. More important, he announced that the paper would enter the political arena: "In politics we are decidedly [W]hig, and we intend still to maintain inviolate those principles, because we believe them to be the most productive of good to our favored country."<sup>30</sup> This

27. "Sunday Visiting," *Frontier Guardian*, July 10, 1850, p. 2, col. 1; "Idleness," *Frontier Guardian*, July 10, 1850, p. 2, col. 5.

28. "A Word to the Saints in Pottawatamie County," *Frontier Guardian*, November 13, 1850, p. 2, col. 5.

29. "Wanted," *Frontier Guardian*, July 24, 1850, p. 2, col. 5. See also, "The man who would . . .," *Frontier Guardian*, October 2, 1850, p. 1, col. 5; "Would you prosper . . .," *Frontier Guardian*, October 2, 1850, p. 2, col. 2; "To Those Who Owe for the Guardian," *Frontier Guardian*, October 16, 1850, p. 2, col. 1.

30. "End of the Second Volume," *Frontier Guardian*, January 22, 1851, p. 2, col. 2. Hyde's decision to favor the Whig party did not sit well with the editor of the *Keokuk Dispatch*. He reprinted a letter written by A. W. Babbitt to the editor of the *Statesman*: "Mr. Hyde announces himself a whig, (but not an ultra whig,) has no set notions, has never voted but once in his life, knows little or nothing about Federal and State policy, yet he assumes the responsibility of influencing a

announcement was a dramatic shift from earlier days when the Latter-day Saints were decidedly Democrats.

**Volume Three.** With these changes in place, the third volume was begun on February 7, 1851. To most subscribers, everything about this volume was new: masthead, political direction, even the publication day—Friday, which corresponded with the departure of the Kanesville mail. But the biggest change was the absence of a doctrinal treatise on page one; in its place were articles promoting temporal wealth. The content also shifted, with a three-to-one increase in the number of emigration articles.

Hyde hoped all these changes would help sell the paper prior to his permanent move west. On June 13, Hyde wrote, “This is probably the last article that we may write previous to our departure for [Salt Lake City].” He advised newspaper agents “that the vacancies occasion by those who may have left for the Valley be filled immediately. Therefore let each Township, or Branch of the Church, call a meeting, and elect by the vote of said meeting, a good man to receive and distribute the Guardian in their location.”<sup>31</sup> However, Hyde left Kanesville on June 28, with an expected return date of October, even though he had not sold the paper. His departure this time was again in response to Brigham Young’s request that he come to Salt Lake.<sup>32</sup>

During Hyde’s absence, Gooch and MacIntosh were responsible for publishing the *Guardian*. They also were in charge of the new general store in the Guardian office. For sustenance they penned, “We are still in want of Wood to keep the Printers warm. . . . Our Devil [printer’s assistant] says: if fuel for fire is not furnished him quickly, he will quit work.” Then, unbeknown to Hyde, Gooch and MacIntosh increased the price of the yearly subscriptions by ten cents to \$1.10. They also organized a contest, asking readers to bring the biggest vegetables to their office. Although subscribers may have balked at the increased rate, the contest was an immediate success. “Squash weighing sixty-four pounds” and “a Radish weighing four pounds and fourteen ounces” were brought to the office. “Who can beat these?” was the question asked in the next issue.<sup>33</sup> As if the contest were real, and not a trick to get food for the staff, more vegetables were brought.

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whole community; and lest he sh[ould] betray ignorance as their guide, he directs them to a political knave to counsel them ‘when and where to act.’” “The Mormon Bribery,” *Keokuk Dispatch*, November 2, 1848, 2.

31. “Warning,” *Frontier Guardian*, June 13, 1851, p. 2, col. 1; “To Our Agents, and Others in this County,” *Frontier Guardian*, June 13, 1851, p. 2, col. 3.

32. “Fifth General Epistle,” *Frontier Guardian*, May 30, 1851, p. 1, col. 6.

33. “Wood! Wood!!!” *Frontier Guardian*, October 17, 1851, p. 2, col. 3; “Some of the Products of Pottawatamie County,” *Frontier Guardian*, October 17, 1851, p. 2, col. 3.



MacIntosh and Gooch reported this news of extraordinary vegetables while neglecting such important matters as minutes of a Church conference held in Kanesville.<sup>34</sup> To even the casual reader, the *Frontier Guardian* had changed again.

When Hyde returned to Kanesville, he did not express disdain at the past actions of Gooch and MacIntosh. Selling the *Guardian* and moving to the Salt Lake Valley was more important. For those who wondered if the newspaper would immediately cease publication, Hyde assured them, "We shall continue the publication of this paper until we remove" or sell.<sup>35</sup> With that said, Hyde announced that the portion of Pottawattamie County "owned and occupied by the Mormon population [was] for sale." To prospective buyers, he advised, "Now is the time for speculation and investment."<sup>36</sup> For those who called themselves Saints, a letter from the First Presidency advised them to purchase horses, mules, oxen, and wagons for the westward trek.<sup>37</sup>

**Volume Four.** The first two issues—two more than Hyde had planned—were printed as the *Frontier Guardian* before the name was changed to *Guardian and Sentinel*. These first two issues lacked articles on doctrine. Instead, articles appeared on the nation's capital, France, and England, coupled with an honorific poem extolling the past greatness of the *Frontier Guardian*.<sup>38</sup> The new direction of the paper and the attractive masthead succeeded in bringing an interested buyer. On February 20, 1852, Hyde announced the paper had been sold to attorney Jacob Dawson from Fremont County, Iowa.<sup>39</sup>

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34. The conference was held October 6, 1851, but the minutes of the conference were not printed until the end of the month. "Conference Minutes," *Frontier Guardian*, October 31, 1851, p. 1, col. 5.

35. "Reminiscence," *Frontier Guardian*, November 14, 1851, p. 2, cols. 3–4.

36. "Pottawatamie County For Sale," *Frontier Guardian*, November 14, 1851, p. 2, col. 4.

37. "To all the Saints in Pottawatamie," *Frontier Guardian*, November 14, 1851, p. 2, col. 6.

38. See North Pigeon Joe, "The Frontier Guardian," *Frontier Guardian*, February 6, 1852, p. 4, col. 1.

39. Under Dawson's leadership, the *Kanesville (IA) Guardian and Sentinel* featured "Politics, Literature, Arts, Sciences, and . . . General news of the day." Politically, it remained Whig, but its columns were opened to discussion. In his final issue as editor, Hyde wrote, "We may scribble a little now and then for the *Guardian and Sentinel* to benefit, arrange, and order our emigration." "Prospectus for Publishing the *Frontier Guardian* and *Iowa Sentinel Weekly*," *Frontier Guardian*, February 20, 1852, p. 2, col. 5; "Valedictory," *Frontier Guardian*, February 20, 1852, p. 2, col. 3.

## Analysis of the *Guardian's* Content

Compared to other Mormon newspapers, the *Guardian's* content was not unique in its approach to religious doctrine, Church news, day-to-day secular events, weather, politics, and business opportunities. However, the subject matter of the *Guardian* was unique because it was the Church's only newspaper at Kaneshville that chronicled life in this way station for western emigration. And, like other nineteenth-century papers, the *Guardian* was a composite of exchanges or clippings and telegraph dispatches. Most of the national and international news, short fictional stories, pithy sayings, and humor were reprints from other publications.

The paper reflected the religious persuasion of its editor in chief and most of its readership. From the selection of newspaper agents, most of whom were also set apart as missionaries, to the lead article—a doctrinal treatise—the *Guardian* was a Mormon newspaper in Iowa. As such, Hyde believed it deserved a place in every Mormon home.<sup>40</sup> To help him circulate the paper among Church members, thirteen men were named in early 1849 as “missionary” newspaper agents.<sup>41</sup>

During the first year of publication, agents were not called to labor in the Missouri Valley. This suggests first and foremost that they were expected to be proselyting missionaries, which confused the missionary/agents who failed to forward “money that is paid to [them] by subscribers for the *Guardian*.”<sup>42</sup> Most missionary/agents had assumed subscription monies should offset mission expenses. Once this matter was resolved, more agents were called.<sup>43</sup>

It was not until January 1851 that Hyde sent agents to several former Mormon encampments in Pottawattamie County. By this time, however, these encampments were surveyed communities with a post office and an organized Church branch. Hyde assigned branch officers in these communities to select a “man to be your neighborhood Postmaster to receive

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40. See, “Who that is a friend . . .,” *Frontier Guardian*, February 7, 1849, p. 2, col. 5; “Suppose that every subscriber . . .,” *Frontier Guardian*, February 21, 1849, p. 2, col. 4; “If a man . . .,” *Frontier Guardian*, May 2, 1849, p. 2, col. 5; “Be kind . . .,” *Frontier Guardian*, September 5, 1849, p. 1, col. 4.

41. The most renowned of the newspaper agents in Missouri was David Whitmer of Richmond. “Agents for the *Guardian*,” *Frontier Guardian*, March 7, 1849, p. 2, col. 1.

42. “Agency,” *Frontier Guardian*, May 2, 1849, p. 2, col. 2.

43. See “Agents for the *Guardian*,” *Frontier Guardian*, January 22, 1851, p. 1, col. 1; “Agents for the *Guardian* in this County,” *Frontier Guardian*, January 22, 1851, p. 1, col. 1.



The new masthead of the *Frontier Guardian* debuted with the first issue of volume 3 in February 1851.

the papers for you.”<sup>44</sup> This action changed the status of missionary/agent to agent for those called to Pottawattamie County and put in place fifteen agents in the Missouri Valley by January. Almost one year later, the number of local agents had increased to twenty-eight. This brought the total number of agents, including local and those assigned throughout the United States and England, up to 109.<sup>45</sup>

**Lead Articles.** As editor of an official Church publication and hoping to attract Latter-day Saint subscribers, Hyde printed lengthy doctrinal treatises that covered all six columns of page one. Although he was editor in chief and a member of the Quorum of the Twelve Apostles, he never featured his own doctrinal writings. Instead he often relied on Orson Pratt’s writings that were first printed in the *Millennial Star*, because “a flood of testimony from the pen of Elder Pratt is poured upon the world, and if they can resist its clear and majestic current, it would really seem to us, that they possess more of a reckless opposition to the dictates of conscience, than of simple honesty of heart that is a pre-requisite to eternal life and salvation.”<sup>46</sup>

Unfortunately, issues of the *Star* were not always available. Rather than delay publishing the *Guardian*, Hyde sometimes printed letters from prominent missionaries. When such letters failed to arrive at the office, Hyde turned to doctrinal treatises printed in earlier newspapers such as *Times and Seasons*, *Messenger and Advocate*, and *The Evening and the Morning Star*. Hyde sometimes quoted portions of the Doctrine and Covenants to fill the *Guardian*’s columns.

44. “Home Regulations,” *Frontier Guardian*, June 13, 1849, p. 2, col. 5.

45. “Travel Agents,” “Agents for the Guardian,” “Agents for the Guardian in the County,” *Frontier Guardian*, January 23, 1852, p. 1, col. 1. See the annotated list of newspaper agents mentioned in the newspaper on the *Frontier Guardian* DVD-ROM.

46. Orson Pratt, “The Question Answered, Was Joseph Smith Sent of God!” *Frontier Guardian*, February 21, 1849, p. 2, col. 1.

**Joseph, Nauvoo, and Past Wrongs.** Page two usually contained articles about Joseph Smith. Although the young Prophet had met a martyr's fate, his life, teachings, and struggles were never far from the thoughts of Hyde and other Church members.

Hoping to keep the memory of Joseph Smith in the forefront, Hyde informed readers of sundry events in old Nauvoo. He took special interest in updates about the Nauvoo Temple<sup>47</sup> and in Lucy Mack Smith, the widowed mother of the slain Prophet, who "concluded to stay there and lay her bones with her husband and sons."<sup>48</sup>

**News from Salt Lake Valley.** News from the valley took precedence over local Church news.<sup>49</sup> The information came in three forms—First Presidency epistles, letters from ecclesiastical leaders, and news from traveling missionaries. To Hyde, however, the most reliable news came from epistles and letters.

Six general epistles of the First Presidency were printed verbatim in the *Guardian*. The first contained information about a city being built in the Salt Lake Valley and the return of the Mormon Battalion. The epistle also advised emigrants to be properly outfitted before heading to Zion.<sup>50</sup> The second epistle informed the Pottawattamie Saints of the status of the Perpetual Emigrating Fund.<sup>51</sup> The third contained news of settlements in Utah Valley and southern Utah. It also instructed leading elders to come quickly to the Salt Lake Valley.<sup>52</sup> The fourth epistle mentioned the establishment of other settlements to the north and new mission assignments,<sup>53</sup> while the fifth began with a brief history of the Church and encouraged

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47. See "Dreadful Tornado—Destruction of the Temple Walls," *Frontier Guardian*, July 24, 1850, p. 1, cols. 1–2.; "Night of Martyrdom," *Frontier Guardian*, June 27, 1849, p. 1, cols. 4–5; "Death of Joseph and Hyrum Smith," *Frontier Guardian*, June 27, 1849, p. 2, col. 3; "Nauvoo Temple," *Frontier Guardian*, June 27, 1849, p. 1, col. 3.

48. "Mother Smith," *Frontier Guardian*, November 14, 1849, p. 2, col. 1.

49. Statements such as "Much important matter had to be omitted, to give place to the news from the Great Salt Lake Valley" were commonplace in the *Guardian*. See, for example, "Much important matter . . .," *Frontier Guardian*, May 30, 1849, p. 2, col. 2.

50. "First General Epistle . . .," *Frontier Guardian*, May 30, 1849, p. 2, cols. 2–6.

51. "Important from Salt Lake City," *Frontier Guardian*, December 26, 1849, p. 1, cols. 1–4.

52. "Third General Epistle of the Presidency," *Frontier Guardian*, June 12, 1850, p. 2, col. 5–p. 3, col. 2.

53. "Fourth General Epistle of the Presidency," *Frontier Guardian*, December 11, 1850, p. 1, cols. 1–4.

emigration to Zion.<sup>54</sup> The final epistle assured the Pottawattamie Saints of Hyde's safe arrival in the valley and announced that the poor in Kanesville would be gathered to Zion.<sup>55</sup>

As for letters from Church leaders, "Some have thought it very hard and extortionate to be obliged to pay 40 cents postage on a letter from the Salt Lake [Valley] here," printed Hyde.<sup>56</sup> He urged payment, especially when the unclaimed letter was from a Church leader, for these letters often contained minutes of conferences held in Salt Lake City. Letters also contained descriptions of celebrations in the valley—July 24 being the most elaborate.<sup>57</sup>

**Mormon Emigration to Salt Lake Valley.** "Push the Saints to Zion, and persuade all good brethren to come, who have a wheelbarrow, and faith enough to roll it over the mountains," wrote the First Presidency.<sup>58</sup> To those leaving Babylon, Hyde warned, "We say to all persons abroad, when you leave for this place, leave honorably, so that if you should be sent back to preach the gospel to your old neighbors, you would not be afraid or ashamed to meet them."<sup>59</sup> He also printed news of their departure aboard ships in Liverpool.<sup>60</sup>

With such a massive exodus underway, it is unsurprising that Kanesville became a major trailhead for Mormon emigrants. For some travelers, the community was more than a way station for the journey ahead. As they waited for grass to grow on the plains to sustain cattle and teams, these emigrants were schooled on commodities needed for the next leg of their

54. "Fifth General Epistle," *Frontier Guardian*, May 30, 1851, p. 1, col. 2–p. 2, col. 1; "See the General Epistle on First Page," *Frontier Guardian*, May 30, 1851, p. 2, col. 3.

55. "Sixth General Epistle," *Frontier Guardian*, November 14, 1851, p. 1, col. 2–p. 2, col. 2.

56. "Salt Lake Postage," *Frontier Guardian*, March 7, 1849, p. 2, col. 2.

57. See "24th of July, at Great Salt Lake City," *Frontier Guardian*, September 19, 1849, p. 4, cols. 1–5. News of Mormon emigration was reported in the *Iowa Standard*: "The Mormons are said to be crossing in large numbers at Council Bluffs, and from 1,500 to 2,000 wagons are expected to leave in a few weeks for the Great Salt Lake." "Oregon and California Emigrants," *Iowa Standard*, May 24, 1848, 2.

58. "From the Presidency," *Frontier Guardian*, July 24, 1850, p. 2, col. 4.

59. "Zion no Refuge for the Wicked," *Frontier Guardian*, August 8, 1849, p. 2, col. 4.

60. See "The Mormons," *Frontier Guardian*, April 18, 1849, p. 1, col. 3; "The ships 'James Pennell' and. . .," *Frontier Guardian*, October 17, 1849, p. 2, col. 6; "Emigrants from Britain," *Frontier Guardian*, June 12, 1850, p. 2, col. 2; "We learn that. . .," *Frontier Guardian*, April 18, 1849, p. 2, col. 2; "The St. Louis Intelligencer. . .," *Frontier Guardian*, June 12, 1850, p. 3, col. 2.



journey: rifles, turkeys, geese, ducks, cows, coins, good teams, and good wagons.<sup>61</sup> After these trains were outfitted, the newspaper declared, "We hope to see trains starting from this point every week."<sup>62</sup> Hyde believed a spring launch was critical for a successful journey.<sup>63</sup> To facilitate migration, he printed the dates and places of expected departures.<sup>64</sup>

Often the size of the trains was larger than even Hyde had expected. One train, for example, consisted of 700 wagons, 4,000 sheep, and 5,000 head of cattle, plus unnumbered horses and mules.<sup>65</sup>

Hyde also consistently advised the emigrants to form a "strictly military" company and have every wagon "examined to see if it contains the requisite amount of provisions, utensils and means of defence."<sup>66</sup> Assured that his advice would be heeded and that all were ready, Hyde urged a speedy journey to avoid unfavorable weather and instructed the emigrants to follow "the North side of the Platte, the entire distance; not even crossing it at Laramie. This route is, at least, one hundred miles shorter."<sup>67</sup> He also warned of marauding Indians, because "they say that the Indians were rapidly assembling for the great council at Fort Laramie. . . . They '*will be the white man's friendly enemy as long as they live.*'"<sup>68</sup> With this said, wagon trains departed from the greater Kanessville area.

It should be noted that those who headed for the gold fields in "California companies" received a different message from Hyde: "Every man engaged in hunting gold, and every one that visits the gold region, goes armed to the teeth. Scenes of violence occur; there is no security for life and property."<sup>69</sup> He spoke of "men loaded with gold, [who] appear like haggard vagabonds, clothed in filthy and tattered garments of the

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61. See "Salt Lake Emigrants," *Frontier Guardian*, February 21, 1849, p. 2, col. 3; "Take turkeys. . .," *Frontier Guardian*, February 21, 1849, p. 3, col. 5; "Small Coin," *Frontier Guardian*, April 4, 1849, p. 2, col. 3; "How to Prosper on the Plains," *Frontier Guardian*, May 29, 1850, p. 2, col. 2.

62. "Goods for the Valley," *Frontier Guardian*, January 9, 1850, p. 2, col. 2.

63. See "Official," *Frontier Guardian*, May 29, 1850, p. 2, col. 2.

64. See "Rally! Rally!" *Frontier Guardian*, May 16, 1849, p. 2, col. 1.

65. "Emigration," *Frontier Guardian*, June 12, 1850, p. 2, col. 1.

66. "Salt Lake Emigrants," *Frontier Guardian*, February 21, 1849, p. 2, col. 3.

67. "North Side of the Platte!" *Frontier Guardian*, December 11, 1850, p. 2, col. 2.

68. "Arrivals Through the Plains," *Frontier Guardian*, October 17, 1851, p. 1, col. 6 [italics in original]; see also "Western Emigrants, Take Notice," *Frontier Guardian*, May 2, 1849, p. 2, col. 4.

69. "A letter from San Francisco. . .," *Frontier Guardian*, February 21, 1849, p. 2, col. 1; see also "The Gold Region and Gold Fever," *Frontier Guardian*, February 7, 1849, p. 2, col. 3.

meanest kind” and that “miners were suffering from sickness and want of provisions.”<sup>70</sup> Despite this description, California companies left Kanesville with marked regularity.

**Minutes of Church Conferences in Kanesville.** Minutes of the annual and semiannual Kanesville conferences (from April 1849 to October 1851) were printed in the *Guardian*. In addition to sustaining general and local authorities—including Hyde—at these conferences, those who attended listened to sermons on a variety of topics.<sup>71</sup>

In 1849, Hyde spoke of severe weather and local affairs before calling the congregation to emigrate to Zion and to remember the Kanesville poor.<sup>72</sup> At the April 1850 conference, hundreds of non-Mormons in California companies attended. Seizing the missionary moment, Hyde welcomed the guests and spoke of angels visiting the earth and of his visit to Jerusalem. He went on to speak about American politics and what he perceived to be the threatening dissolution of the Union. Then, unexpectedly, he asked if the congregation approved of his “course and policy in Pottawatamie, and east of the Rocky Mountains.” A vote was taken, and the actions of Hyde were sustained. During this conference, Hyde also addressed problems of the poor and the need to pay tithing.<sup>73</sup> The next year he reminisced about his service in Pottawattamie County.<sup>74</sup>

**Local Church News.** Knowing when and where meetings and conferences were being held was important to Church organization in Pottawatamie County. But to Hyde, payment of tithes and fast offerings to benefit the poor was even more important.<sup>75</sup> For those who hesitated to pay tithing, Hyde provided opportunities for them to give service.<sup>76</sup> As to fasting,

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70. “Late from the Gold Regions—More Extensive Discoveries,” *Frontier Guardian*, March 7, 1849, p. 1, col. 6; “California,” *Frontier Guardian*, March 7, 1849, p. 3, col. 4.

71. At the different conferences Hyde was sustained as “President of Pottawatamie county,” with George A. Smith and Ezra T. Benson as his counselors and as “President over the different branches of the Church, this side of the Rocky Mountains.” See “Conference Minutes,” *Frontier Guardian*, May 2, 1849, p. 1, col. 4; “Conference Minutes,” *Frontier Guardian*, May 1, 1850, p. 1, col. 3; “Adjourned Conference,” *Frontier Guardian*, May 2, 1851, p. 1, col. 6; “Conference Minutes,” *Frontier Guardian*, October 31, 1851, p. 1, col. 5.

72. “Second Day,” *Frontier Guardian*, April 18, 1849, p. 2, col. 3.

73. “Conference Minutes,” *Frontier Guardian*, May 1, 1850, p. 1, cols. 1–4.

74. See “Conference Report,” *Frontier Guardian*, May 2, 1851, p. 1, col. 6.

75. See, “Tithing,” *Frontier Guardian*, December 12, 1849, p. 2, col. 1.

76. See, “Tithing,” *Frontier Guardian*, February 21, 1849, p. 2, col. 6.

an abstinence of food and drink, he set aside a specific day each spring for the practice.<sup>77</sup>

Although the payment of tithes and offerings was important, there were other issues that demanded Hyde's response. One issue was an attempt by Latter-day Saints in Kanesville to distinguish between "Brighamites" and "Hydeites." To those who believed Hyde and his counselors were divided in their "feelings, views, and in our counsel, &c.," Hyde assured them that "we have been *one* and united in *every single movement and principle*."<sup>78</sup> For those who openly opposed him and the teachings of the Church, Hyde responded by printing their names and alleged sins in the *Guardian*.<sup>79</sup>

As for self-proclaimed Church leaders, like Sidney Rigdon, Alpheus Cutler, James Strang, and others, Hyde referred to them as the "disaffected." Those who followed such men were called upon to repent. Hyde then advised the faithful to embrace returning prodigals and to gain greater wisdom by adhering to the word of God.<sup>80</sup> "The Alpha and Omega of our song is, 'KEEP OUT OF DEBT,'" and "the practice of gaming on the Sabbath will cease."<sup>81</sup> He also condemned excuses for failing to worship, such as "Overslept myself. Could not dress in time. Too cold. Too hot. Too windy. Too wet. Too damp. Too cloudy. Don't feel disposed. No other time to myself."<sup>82</sup> Yet, Hyde believed, "the Church in Pottawatamie county was never more united than at the present time."<sup>83</sup>

**Poetry.** Poetry in the *Guardian* had historical significance to Mormons. For example, "The Wayfaring Man," "The Assassination of Gen's Joseph Smith and Hyrum Smith," "Cry of the Martyrs," "The Seer," "Praise to the Man," and "'Tis an Orphan at Its Birth" reminded readers of Joseph Smith's martyrdom. "A Journeying Song for the Camp of Israel," "California Song," "Let Me Go to the Valley," "Farwell to Kanesville," "Farewell to Iowa," and "Haste to Zion" reminded readers of the trek that lay ahead.

77. See, "Fasting and Prayer," *Frontier Guardian*, April 4, 1849, p. 2, col. 1.

78. "Brighamites and Hydeites," *Frontier Guardian*, June 27, 1849, p. 2, col. 1; italics in original.

79. See, "Meeting of the High Council," *Frontier Guardian*, February 7, 1849, p. 4, col. 4; "James H. Mulholland...", *Frontier Guardian*, February 7, 1849, p. 2, col. 3.

80. "Rigdon's Confessions," *Frontier Guardian*, November 14, 1849, p. 2, col. 3; "Prospects of the Church," *Frontier Guardian*, April 4, 1851, p. 2, cols. 3-4.

81. "Keep Out of Debt," *Frontier Guardian*, August 8, 1849, p. 2, col. 4; "Shooting on the Sabbath-day," *Frontier Guardian*, November 14, 1849, p. 2, col. 4.

82. "Excuse for not Going to Church," *Frontier Guardian*, May 15, 1850, p. 1, col. 6.

83. "Prospects of the Church," p. 2, col. 3.

**Local News of Kanesville.** Hyde selectively printed news of greatest interest to the majority in Pottawattamie County. He instructed those “residing on the low bottoms of the Missouri river . . . to remove to higher ground.”<sup>84</sup> He printed news of “a good Choir of vocalists” being formed.<sup>85</sup> But it was government issues, marriages, deaths, and advertisements that consistently appeared in his newspaper.

**Government Issues.** Hyde held strong opinions on local government issues, especially elections. He believed Latter-day Saints had a right to vote in all elections. Furthermore, when state officials threatened to disfranchise Pottawattamie County in 1849, Hyde printed the full text of a legislator’s speech before the Iowa senate opposing the “deliberate disfranchisement of a whole county [Pottawattamie] containing, 4000 or 5000 inhabitants [who are Mormons], to condemn it to anarchy, exile and banishment, for no other assignable reason than because they voted as they pleased.” When the proposed legislation failed to pass, Hyde printed, “Our readers may forget as soon as they can, the injustice which the Democrats sought to do us. Indeed, the sooner the better; but never forget that four Whig members of the Senate stood by your interests to the very last hour.”<sup>86</sup>

Angered by the action of state Democrats, Hyde promoted the Whig Party and its candidates and encouraged his readers to do likewise. On May 29, 1850, he asked, “Are You Whig or Democrat?” To Hyde, Whigs were as the “gentle rain upon the earth . . . while the Democrats are like a torrent falling from a broken cloud.”<sup>87</sup> “To the Polls! To the Polls!!” was his patriotic cry.<sup>88</sup>

When Hyde learned that a “poll book” containing the votes of the Kanesville precinct had been stolen, he was livid. “Down with the Poll Book thieves!” he printed.<sup>89</sup> However, stealing the poll book was only one crime in Kanesville. Hyde also demanded that those “aiding and abetting boys to fight in our streets” be brought to justice.<sup>90</sup>

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84. “Notice,” *Frontier Guardian*, February 7, 1849, p. 2, col. 2.

85. “Music,” *Frontier Guardian*, August 8, 1849, p. 2, col. 5.

86. “Mr. Springer’s Speech, in the Iowa Senate,” *Frontier Guardian*, April 4, 1849, p. 1, col. 5; “We publish today . . .,” *Frontier Guardian*, April 4, 1849, p. 2, col. 3.

87. “Are You Whig or Democrat?” *Frontier Guardian*, May 29, 1850, p. 2, col. 1.

88. “To the Polls! To the Polls!!” *Frontier Guardian*, July 24, 1850, p. 2, col. 2.

89. “Stealing the Poll Books,” *Frontier Guardian*, March 20, 1850, p. 2, col. 4; “Contested Election,” *Frontier Guardian*, July 24, 1850, p. 3, col. 3.

90. “The Bars,” *Frontier Guardian*, January 8, 1851, p. 1, col. 4; “Interest vs Morality,” *Frontier Guardian*, January 8, 1851, p. 2, col. 2.

**Marriages and Deaths.** It was customary to announce upcoming marriages in the *Guardian*. The name of the bride and groom and the date and place of the wedding formed a typical entry. A poetic phrase promising future happiness for the bride and groom appeared next to the marriage entry when a gift was presented to the *Guardian* staff by the intended.

Death notices were written in a brief, matter-of-fact manner. For example, "We are informed that Oliver Cowdry [*sic*], Esq., died, at Richmond, Ray County, Missouri, on the 3d day of March last, of Consumption."<sup>91</sup> For those whose death brought special sorrow to the *Guardian* staff, a poetic verse followed the obituary.<sup>92</sup>

**Advertisements.** To promote trade in town and elsewhere along the Missouri River, Hyde offered reasonable rates that encouraged merchants to advertise in the *Guardian*.<sup>93</sup> He encouraged readers to fraternize establishments that placed ads in his newspaper.

To discerning readers, however, it was establishments in Kanesville and vicinity that received his highest commendations.<sup>94</sup> Whether the reader was looking for a watchmaker, jeweler, tailor, dentist, doctor, sign painter, gunsmith, tin maker, music teacher, or attorney, Kanesville had the service. Those needing a buggy, cook stove, ready-made clothing, cheese, or a ferry ride, should look no further than greater Kanesville.

**Dependence on Newspaper Exchanges and Telegraph Dispatches.** As with other papers of the day, the *Guardian* was a composite of exchanges and telegraph dispatches. National and foreign news, fictional stories, wise sayings, and humor appearing in the *Guardian* lacked originality but proved Hyde had access to such papers as the *Boston Times*, *Burlington (IA) Hawk Eye*, *Chicago Tribune*, *Cincinnati Gazette*, *Detroit Free Press*,

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91. "We are informed . . .," *Frontier Guardian*, April 3, 1850, p. 2, col. 4.

92. See, for example, "Died," *Frontier Guardian*, September 19, 1849, p. 2, col. 6; "Died," *Frontier Guardian*, October 17, 1849, p. 2, col. 6; "Obituary," *Frontier Guardian*, May 16, 1851, p. 2, col. 2.

93. See "Terms of the Guardian," *Frontier Guardian*, February 7, 1849, p. 1, col. 1.

94. See, for example, "Business is lively . . .," *Frontier Guardian*, May 16, 1849, p. 2, col. 1; "To Emigrants," *Frontier Guardian*, January 23, 1850, p. 2, col. 3. Not everyone agreed with Hyde's assessment of Kanesville. The *Keokuk Dispatch* reprinted an account written by a reporter for the *St. Louis (MO) Republican* who visited the Mormon community and wrote, "I visited the Mormon settlement at Council Bluffs. I found the Saints in what they call a prosperous and happy condition; but which I (not seeing things with an eye of faith) call a most miserable and degraded state, considering that they claim to be the chosen of the Lord, an example to all nations, and harbingers of the Millenium." "Mormon Settlement in Iowa," *Keokuk Dispatch*, January 25, 1849, 2.



*Grand River (MI) Eagle*, *New York Evening Post*, *New York Sun*, *New York Tribune*, *Springfield (IL) Republican*, and the *Washington (DC) Union*, as well as the *St. Louis (MO) Republican*, *St. Louis (MO) Union*, *New Orleans Times*, and *Washington (DC) Globe*.<sup>95</sup>

Through these papers, Hyde informed readers of national events, such as the death of prominent politicians. Likewise, stories of the New York World's Fair, steamboat tragedies, railroad plans to the Pacific, and an "aerial machine now constructing in New York, to carry passengers to San Francisco" did not occasion unwarranted, lengthy editorials.<sup>96</sup>

But for news that directly or indirectly had bearing upon the Saints, he took an aggressive, and sometimes confrontational, stance. For example, after reporting the electoral vote that propelled Zachary Taylor to the presidential office, Hyde delighted in noting that Martin Van Buren, who would not use his presidential office to help Latter-day Saints, did not garner one vote.<sup>97</sup> And when several exchanges claimed Mormons in the Salt Lake Valley had more than one wife, Hyde printed, "Some of our exchanges say that the Mormon men at Salt Lake Valley have from five to twenty-five wives, If this is so, they are certainly ahead of us, and if they keep on, they will be as bad as King David and Solomon, and some others of whom we read of in olden time."<sup>98</sup>

When arguments were raised against admitting Deseret as a state, Hyde printed verbatim opinions from around the world. He told his readers that in Little Rock, Arkansas, Deseret was viewed as "Modern miracles—The New Mormon State." In Belleville, Illinois, the territory was an "internal organization being a Theocracy." The *New York Tribune* called it a "mystical appellation derived from their religious dialect" while the *London Times* claimed the United States would face a "great evil from contact with people

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95. Of all the papers at his disposal, Hyde favored the *St. Louis Republican*. See, for example, "Missouri Republican," *Frontier Guardian*, March 7, 1849, p. 2, col. 3; "Correspondence of the Missouri Republican," *Frontier Guardian*, February 7, 1849, p. 2, col. 4.

96. "Balloon for California," *Frontier Guardian*, April 4, 1849, p. 3, col. 5.

97. Joseph Smith met with Martin Van Buren. After Joseph explained the problems his people had suffered in the state of Missouri, Van Buren said, "Your cause is just, but I can do nothing for you." Smith, *History of the Church*, 4:80.

98. "Some of our exchanges say..." *Frontier Guardian*, December 26, 1849, p. 2, col. 2.

so loose and radical in their notions of God.”<sup>99</sup> Hyde then countered their arguments by writing of Deseret as a westward Zion.<sup>100</sup>

As to news of how Mormonism was viewed abroad, Hyde was dependent on European newspapers carried on trans-Atlantic steamers, which regularly docked at St. John’s, Canada. The papers were read by telegraphers at St. John’s, who sent their summaries via “telegraph dispatches” to the States. Dispatches received at the *St. Louis Republican* office were published. Hyde found that most foreign clippings had some bearing upon Church members since Mormon missionaries were laboring in England, France, Denmark, and Italy. And news from Russia, Hungary, Austria, and even Tuscany was important because Mormons believed it would not be long until missionaries, perhaps themselves or their loved ones, would be called to labor in these far-distant climes.

**Wise Sayings.** Short pithy sayings were popular in nineteenth-century newspapers. The following are examples of the wise sayings Hyde printed: “The friendship of some people is like our shadow, keeping close to us while we walk in the sunshine, but deserting us the moment we enter the shade,”<sup>101</sup> “The climax of human indifference has arrived when a lady don’t care how she looks,”<sup>102</sup> and “Every species of moral reform ought to begin with ourselves.”<sup>103</sup>

**Fiction.** The reading public often demanded short fictional stories. Usually, there was little substance to them, but in the first issues of the *Guardian* the stories conveyed morals.<sup>104</sup> Yet as time passed and few stories in the exchanges had a moral turn, Hyde concluded to print frivolity and leave readers to judge its worth. When Hyde eventually turned to stories of romance, his subscriptions increased.<sup>105</sup>

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99. “Modern Miracles—The New Mormon State,” *Frontier Guardian*, February 6, 1850, p. 1, col. 4; “The Mormons,” *Frontier Guardian*, February 6, 1850, p. 1, col. 5; “The Mormons in the valley . . .,” *Frontier Guardian*, February 6, 1850, p. 1, col. 5; “The London Times . . .,” *Frontier Guardian*, February 6, 1850, p. 1, col. 6.

100. “Believe not Every Spirit, but Try the Spirits if They Be of God,” *Frontier Guardian*, September 4, 1850, p. 2, col. 2.

101. “The friendship of some people . . .,” *Frontier Guardian*, May 30, 1849, p. 1, col. 6.

102. “The climax of human indifference . . .,” *Frontier Guardian*, September 5, 1849, p. 4, col. 3.

103. “Moral Reform,” *Frontier Guardian*, October 3, 1849, p. 1, col. 6.

104. See “We must ask pardon . . .,” *Frontier Guardian*, February 7, 1849, p. 2, col. 3.

105. See, for example, “List of Monies received . . .,” *Frontier Guardian*, February 6, 1850, p. 2, col. 6. See also the annotated list of final monies and examine the dates of subscription on the *Frontier Guardian* DVD-ROM.

**Humor.** Jokes were another common element in newspapers of the era. Some examples from the *Guardian* include “A person who had been listening to a very dull address, remarked that every thing went of[f] well, especially the audience!”<sup>106</sup>; “Why cannot California be admitted as a State? Because the inhabitants are all *miners*”<sup>107</sup>; and “‘I have met my match,’ as the Devil said when he encountered the lawyer.”<sup>108</sup>

## Conclusion

The *Frontier Guardian* followed in the footsteps of other Mormon newspapers by acting as an official organ for the Church. Hyde effectively used this medium to keep the Saints east of the Salt Lake Valley informed of Church business and to encourage them to gather to Zion. More specifically, the *Guardian* offers an interesting view of the Church during this era, which is different from that in Salt Lake City’s nineteenth-century *Deseret News*. The *Deseret News* tells of permanency—settling new areas and planting and harvesting crops. The *Guardian* tells of impermanency—waiting and preparing a people to cross the plains to reach a westward Zion.

The new accessibility of the *Frontier Guardian* on DVD is significant for historians, Church members, and genealogists. Publications that mention the Saints’ presence in Iowa are relatively few, and their written accounts of the Mormon settlement tend to be scanty. Also, stories in the *Guardian* clarify the location of over ninety communities on the Iowa side of the Missouri River, thus revealing the large Latter-day Saint presence in Pottawattamie County<sup>109</sup> and reinforcing the significance that Mormons had in western Iowa.

Names published in the *Frontier Guardian* make up a valuable genealogical database. Its 109 agents traveled throughout most of the United States soliciting subscribers. Through their efforts, the names of 2,975 subscribers residing in England, Upper Canada, and the United States, were printed in the *Guardian*. Another 753 names of individuals who failed to pick up letters at their respective post offices were printed also. And

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106. “Going Off Well,” *Frontier Guardian*, March 7, 1849, p. 4, col. 6.

107. “Why cannot California . . .,” *Frontier Guardian*, May 2, 1849, p. 4, col. 5.

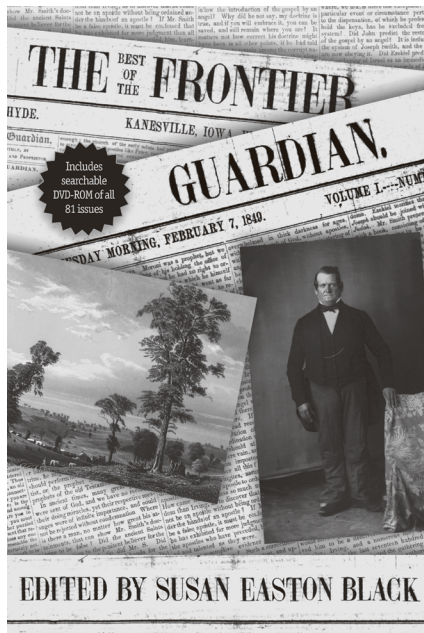
108. “I have met my match . . .,” *Frontier Guardian*, October 3, 1849, p. 4, col. 4.

109. For example, through reading the *Guardian*, historians now know that Pleasant Grove was eight miles above Kanesville on the south side of Big Musquito and about five miles from Indian Mill in Pottawattamie County, while Indian Town was fifty miles east of Kanesville on the east fork of the Nichnebotna River near the Pottawattamie Village of Mi-au-mise. See the annotated list of places mentioned in the newspaper on the *Frontier Guardian* DVD-ROM.

over 1,200 names of Kanesville residents and shopkeepers appeared in the *Guardian*. Furthermore, the newspaper lists Latter-day Saints leaving Pottawattamie County for the Salt Lake Valley or for California as well as those who remained behind in Iowa.

In summary, the *Frontier Guardian* not only reveals the presence of at least four thousand Latter-day Saints in the greater Kanesville area during this era and contains the names of thousands of people, it also illuminates the religious, social, economic, and political aspects of a multidimensional Mormon society.

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## Recent Developments in Neuroplasticity

*James T. Summerhays*

During the twentieth century, many in the emerging fields of brain science operated under the assumption of absolute biological materialism—the idea that all reality in life can be reduced to our natural, physical dimension. For example, some neuroscientists sought to explain the deep mysteries of human consciousness not as any cosmic interconnection of spirit and matter but merely as a series of chemical reactions in the brain. Such assumptions in reductive materialism and pure determinism may sometimes be necessary within the realm of controlled scientific inquiry; but when adopted as a way of life, determinism has profound repercussions not only in the public realm of political strife but also in the quieter realm of personal struggle.

For example, academic circles and mass media outlets alike reported the neuroscientific discovery that human qualities are determined in the first few years of life. True, the developing brain is a specimen of great wonder as neurons and synapses nimbly multiply and trim themselves according to external stimuli, but once the brain's hardware is fully wired, it is no longer plastic or pliable and therefore is much like that old dog, the one with no new tricks. Parents had about three years to make the right impression on their child—or else. From the late 1940s onward, determinism became big business as disciples of Dr. Benjamin Spock and disciples of behaviorism rushed out to buy the latest parenting manual. In fact, proper child development became a great controversy between behaviorists and Spockites in the 1940s and 1950s precisely because both sides assumed that the window of opportunity to mold the little tykes was so fleeting and so crucial.



Science may not have intended it, but there was a side effect to this zeitgeist, namely that adults were banished to the doghouse where the proverbial old dog dwelt. The philosophical ramifications of pure determinism became the conventional, albeit devastating, wisdom. If the wellspring of all adult thoughts and cognitions cannot change, then adults themselves cannot change; thus, happy notions of regeneration or repentance are but deluded tricks grown-ups play on themselves. Any appearance of authentic change in the human spirit can be dismissed as an anomaly in the human biological system. As a result, countless adults, helped along by Freudianism, bemoaned the abominable events of their childhood as the cause of their troubles, and countless more used their childhood as an excuse to make trouble and act rather abominably.

As it turns out, more recent research into neuroplasticity has firmly established that the adult brain is capable of profound changes even in the later stages of life. Beginning in earnest during the early 1990s and picking up steam in the 2000s, influential researchers began publishing their findings in adult neuroplasticity. A seismic shift began taking place in the field of psychology at the same time, for if adult neuroplasticity is possible, then it would follow that many aspects of psychology would need to be revisited—which, it appears, is precisely what happened. Four psychologists—Seligmann, Haidt, Schwartz, and Burns—exemplify this seismic shift.

In 1990, Dr. Martin E. P. Seligman wrote for a general audience *Learned Optimism: How to Change Your Mind and Your Life*, which later helped spawn the positive psychology movement as well as instill the hope that people are not helpless and that profound and fundamental changes are possible in adulthood.<sup>1</sup> Seligman and others note that the DSM-IV, the manual used by all psychiatrists and psychologists to diagnose their patients, is a thousand-page codex of every mental flaw ever discovered but has almost nothing to say about human strengths and how to build upon them. Such a negative skew does have important and even vital uses, but all shadows and no light is rather dreary, particularly to those trying to chase away the indigo shades of anxiety and depression. Positive psychology has become a welcome desert *shekinah* to those groping for more illumination.

Just as quantum mechanics infused a mystical essence into the sciences, researchers in positive psychology also began to see patterns and correlations emerge between the new understanding of neuroplasticity and age-old religious practices. Dr. Jonathan Haidt set out on the ambitious task of sifting through and redacting those universal moral ideas

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1. Martin E. P. Seligman, *Learned Optimism: How to Change Your Mind and Your Life* (New York: Knopf, 1990).

found in all the major ancient religions and civilizations and then reinterpreting them according to modern research in positive psychology and neuroscience—thus was born *The Happiness Hypothesis*.<sup>2</sup> Such a link between religion and this new psychology is compelling, so compelling that even an atheist like Haidt can see it. And for believers, there is something soul-satisfying in seeing Jesus' and Paul's admonitions vindicated in verifiable research.

For instance, Haidt points out that the Christian (as well as Buddhist and Hindu) notion that humans are divided beings battling between two forces is also true for the brain. Scientists can measure brain waves in the left and right frontal cortexes, areas found just behind the forehead. But "it has long been known from studies of brainwaves that most people show an asymmetry" (33). Those who are naturally happy, upbeat, and given to other positive emotions show stronger brain activity in the left frontal cortex. Those who suffer depression, anxiety disorders, and a host of other negative emotions display a more active right frontal cortex. In fact, a person's level of happiness "is one of the most highly heritable aspects of personality" (33). But inheritance need not kill hope. Haidt argues that "you can change your affective style" (35) to a happier disposition, and he points to research showing that focused prayer and religious meditation can cajole the brain's activity to lean to the happy left.<sup>3</sup>

Haidt and Seligman are willing to engage religious ideas, but Latter-day Saints are still likely to disagree with a few of their views concerning the restrictions materialistic biology places on human nature. Seligman suggests elsewhere that abnormal sexual identity is totally unchangeable,<sup>4</sup> and Haidt devotes a portion of his book to exploring research that suggests spiritual experiences are merely a series of neurochemical reactions in the brain's temporal lobes that can be manipulated with drugs (201–6).

Such passages may strike Latter-day Saints as somewhat faithless and skeptical, especially coming from a couple of positive psychologists.

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2. Jonathan Haidt, *The Happiness Hypothesis: Finding Modern Truth in Ancient Wisdom* (New York: Basic Books, 2006).

3. See also Daniel Goleman, "Behavior; Finding Happiness: Cajole Your Brain to Lean to the Left," *New York Times*, February 4, 2003, <http://www.nytimes.com/2003/02/04/health/behavior-finding-happiness-cajole-your-brain-to-lean-to-the-left.html?sec=health>; and Sharon Begley, *Train Your Mind, Change Your Brain: How a New Science Reveals Our Extraordinary Potential To Transform Ourselves* (New York: Ballantine, 2007).

4. Martin E. P. Seligman, *What You Can Change and What You Can't: The Complete Guide to Successful Self-Improvement, Learning to Accept Who You Are* (New York: Knopf, 1994), 15.

Latter-day Saints do acknowledge biology as a powerful force, but one that under normal circumstances *influences* human action rather than one that *determines* it. Latter-day Saints do acknowledge that in some cases biology has a stranglehold on freedom of choice (such as those with severe mental handicaps, major neuropsychiatric disorders, or advanced chemical addictions), but even then they hold onto the hope that someday, somehow, there will be miraculous relief. Also, for Haidt to observe that a reported spiritual experience has an effect on the physical brain creates no problems in Mormon theology, which teaches that the essence we call *spirit* is actually a refined material. Hence there is nothing very spooky in the idea that the temporal lobe, though physical, might help interpret spiritual data. But for Haidt to suggest that the source of the experience begins and ends in the brain seems, to a believer, particularly closed-minded.

True, Latter-day Saints and scientists alike acknowledge that certain deterministic boundaries exist because of biology. We all experience them and easily observe them every day. But Latter-day Saints come from a tradition where they believe, for instance, that the people in the city of Enoch, over a lengthy process of time, were so transformed that they no longer belonged on this earth and were taken to heaven. It should not be surprising, then, that Latter-day Saints are likely to hold a more optimistic view on the possibilities of human change and redemption than what much of the research currently suggests.

More in line with this Latter-day Saint optimism, two other psychologists' works exhibit much more unabashed exuberance towards the powers of human agency in swimming against the pull of mighty biocurrents: Dr. Jeffrey R. Schwartz's *The Mind and the Brain: Neuroplasticity and the Power of Mental Force* and Dr. David D. Burns's bestseller, *Feeling Good: The New Mood Therapy*.<sup>5</sup> Schwartz and Burns strike me as more willing to push against the boundaries of determinism and forge ahead under a new, brain-as-dynamo paradigm—but not in a foolhardy way. They point to mountains of research—much of it more cutting edge—and decades of clinical experience to back them up.

Schwartz introduces readers to a world where patients with total paralysis move cursors on computer screens with the power of their own brain waves; subjects who overcome paralysis through prolonged mental effort despite the sensory nerves to their arms being completely severed; patients who suffer profoundly from obsessive-compulsive disorder

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5. Jeffrey R. Schwartz and Sharon Begley, *The Mind and the Brain: Neuroplasticity and the Power of Mental Force* (New York: Regan Books, 2002); David D. Burns, *Feeling Good: The New Mood Therapy* (New York: Avon Books, 1999).

receiving considerable or complete relief through “redirected attention,” a method that observably changes their brains’ structure; and examples of mind-over-matter that do indeed exist beginning at the quantum level.

Delightfully, Schwartz also considers the spiritual realm of the mind in connection with the material realm. His smashing together of the ancient spiritual particle and the new science particle creates a brilliant flash of energy that should be quite refreshing to educated religionists. And more than refreshing, his book is also a sobering reminder of the moral hazards that arise when spiritual notions of mind and consciousness are altogether removed from neuroscience:

Wrestling with the mystery of mind and matter is no mere academic parlor game. The rise of modern science in the seventeenth century—with the attendant attempt to analyze all observable phenomena in terms of mechanical chains of causation—was a knife in the heart of moral philosophy, for it reduced human beings to automatons. If all of the body and brain can be completely described without invoking anything so empyreal as a mind, let alone a consciousness, then the notion that a person is morally responsible for his actions appears quaint, if not scientifically naïve. A machine cannot be held responsible for its actions. If our minds are impotent to affect our behavior, then surely we are no more responsible for our actions than a robot is. It is an understatement to note that the triumph of materialism, as applied to questions of mind and brain, therefore makes many people squirm. For if the mysteries of the mind are reducible to physics and chemistry, then “mind is but the babbling of a robot, chained ineluctably to crude causality,” as the neurobiologist Robert Doty put it in 1998. (52)

Related to Schwartz’s ideas on redirected attention, Burns’s book *Feeling Good* has pioneered the field of cognitive restructuring, which is a systematic redirecting of a person’s distorted thoughts toward more truthful thoughts. Humans have an automatic internal dialogue of thoughts running nearly all the time, and, as it turns out, this internal dialogue often lies. Catastrophizing, overgeneralizing, labeling, filtering, and other distorted thoughts create distorted emotions. Reprogram the distorted internal dialogue, and watch depression, anxiety, anger, and other troubling states of mind dissipate over time:

Even if there is some type of genetic or biological disorder in at least some depressions, psychotherapy can often help to correct these problems, even without medications. Many research studies, as well as my own clinical experience, have confirmed that severely depressed patients who appear very “biologically” depressed with lots of physical symptoms often respond rapidly to cognitive therapy alone without any drugs. (460)

Also, several independent studies reveal that depressed patients “appear to stay undepressed longer than patients who receive only anti-depressant medication therapy and no psychotherapy” (462). The mind’s ability to overcome biological forces is powerful indeed, but it is no reason to become giddy or reckless. Those with severe disorders like bipolar I or schizophrenia must almost always stabilize their condition with medication first before volitional cognitive restructuring can have any effect (462). “My clinical practice,” says Burns, “has always been predicated on an integrated approach” to biology and the mind (463).

Latter-day Saints can benefit from a more integrated approach as well; whatever spiritual advantages they might enjoy do not always translate into mental health advantages. They suffer from mental disorders almost as frequently as the larger population.<sup>6</sup> But many Latter-day Saints are suspicious of psychology, partly because of its secular nature (and its Freudian beginnings) and partly because of the idea that true religion is supposed to fix everything. For some Latter-day Saints, using psychotherapy is to admit spiritual defeat. Ironically, the scriptures are saturated with Schwartz and Burns—or at least the principles they espouse. Latter-day Saints eager to learn more about the workings of their minds should consider reading *The Mind and the Brain* to gain much-needed hope and then *Feeling Good* to gain much-needed skills.<sup>7</sup>

Among brain researchers, the adage once was, “For every twisted thought, a twisted molecule.” Now it might read, “For every twisted thought, there is a way to untwist it.” Granted, all those ways have not yet been discovered. Many mental disorders baffle both subjects and scientists to this day. The city of Enoch example must be tempered by the example of the “lunatics” in the New Testament who were quite helpless to control their actions until Christ performed a miracle. But for those who are suffering milder disorders and for those “normal” people who just want to keep

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6. Daniel K Judd, “Religiosity, Mental Health, and the Latter-day Saints: A Preliminary Review of Literature (1923–95),” in *Latter-day Saint Social Life: Social Research on the LDS Church and its Members*, ed. James T. Duke (Provo, Utah: Religious Studies Center, Brigham Young University, 1998), 486–88.

7. Those who are wary of outside approaches to psychology have many LDS resources available to them. The Association of Mormon Counselors and Psychotherapists (AMCAP at <http://ldsamcap.org>) continues to conduct research, publish, and assist LDS professionals in sharpening their skills as serious clinicians, and Dr. Allen E. Bergin’s book *Eternal Values and Personal Growth: A Guide On Your Journey to Spiritual, Emotional, and Social Wellness* (Provo, Utah: BYU Studies, 2002) is probably the most exhaustive resource under one cover that combines research-based psychotherapy with a Latter-day Saint perspective.

improving and progressing well into old age, neuroplasticity offers the evidence that such change is possible. And Schwartz and Burns uncover two main roots of that change: human belief and human will. A crucial moment on the path to brain transformation is when people first *believe* they can transform it and then *decide* to transform it.

This is not to say it will not take time, effort, and wisdom, nor is it to say that many will not need the help of medication or the guidance of a good doctor. Schwartz's research using brain imaging technologies firmly establishes that consistent amounts of doctor-assisted mental effort over months and even years, amounting to thousands of good choices, is often necessary to affect the desired biological changes within the brain. And, of course, adult neuroplasticity has certain boundaries, just as human agency has certain boundaries.

But we now have strong evidence that those boundaries are less confining than previously supposed. Schwartz's research firmly establishes that another essence is working on the brain that transcends a deterministic biology; something else is affecting the brain and changing it. I call it humanity—external human experience and internal human will. Many more psychologists today agree that this humanity has great transformative power, and they are throwing off the old Freudian-era *Sturm und Drang* and embracing a more optimistic and pragmatic approach to psychology. And many others, like Schwartz, go a step further and see neuroplasticity as one more reason that the scientific realities of material determinism should be interwoven with the religious and spiritual perspectives of agency, will, and volition.

Biological determinism is everywhere, and to some of it we must surrender. All are susceptible to infirmity and disease. All must grow old and die. But these facts are no reason for scientists, philosophers, or regular folk to surrender to a one-sided determinism that does not allow for transformation, redemption, liberty, and transcendence. Gladly, if the new research is any indication, such a surrender will not be necessary.

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Matthew C. Godfrey. *Religion, Politics, and Sugar:  
The Mormon Church, the Federal Government, and the  
Utah-Idaho Sugar Company, 1907–1921.*

Logan: Utah State University Press, 2007

Reviewed by Barnard Stewart Silver

In our era, when justifiable attention is paid to economic and environmental developments in the Mountain West, Matthew C. Godfrey has written a book, based on his PhD dissertation for the Department of History at Washington State University, that offers close analysis of controversial church-state-industry struggles in the beet sugar industry in Utah and Idaho between 1890 and 1920.

Having read Utah-Idaho Sugar Company (U-I SC) minutes, government documents, and personal journals, Godfrey presents the beginnings of this remarkable industry. He identifies the stances of leading characters within the company. He re-creates efforts to finance growth, including some questionable dealings. He traces restraint of trade charges against the company and presents Charles W. Nibley's defenses. He describes Senator Reed Smoot's pressures and the involvement of other leaders of The Church of Jesus Christ of Latter-day Saints. Overall, Godfrey's study is a business whodunit, offering a disturbing view of a generally well-thought-of enterprise in the Mormon cultural region.

For decades under Brigham Young, John Taylor, and Wilford Woodruff, the Church hierarchy fostered a local beet sugar industry. Production of the first sugar at the Lehi, Utah County, facility in 1891 brought general rejoicing. Independence from high-priced sugar imports was one motivation. Hope for a cash export product was another. Mormons were encouraged to buy stock, grow sugar beets, and work in this first factory and others that followed as several companies emerged and then combined into the twentieth-century powerhouse U-I SC.

Some accusations, however, have marred the reputation of U-I SC. Matthew Godfrey, therefore, tackles three questions concerning the company in the Progressive Era: "First, why did LDS Church leaders use ecclesiastical influence in behalf of sugar at a time when they were trying to maintain competition in other industries, and what forms did this

influence take? Second, what ramifications did this have for the Church and for Utah-Idaho Sugar? Third, how did the integration of Utah's economy into the national scene affect Utah-Idaho Sugar, and how did the LDS influence either help or hinder that assimilation?" (8)

First, Godfrey explains that President Joseph F. Smith sought financial security for the Church by initiating and investing in local businesses. He left contact with local farmers to stake authorities in different growing areas. Stake authorities counseled and assisted farmers to support the mainly Church-owned sugar company by completing growers' contracts with U-I. When competing sugar companies moved into U-I territories, local Church leaders might have encouraged farmers to make an honest evaluation of potential benefits, but instead they allowed false information to be circulated that brought the new companies into disfavor.

Second, Godfrey discusses the extensive investigations that ensued under antitrust laws. Utah-Idaho Sugar Company was challenged in its pricing of sugar, with government investigators asserting that the company was gouging the public. They also alleged that U-I SC was underpaying farmers. The company was found guilty, but the effort to levy punitive damages lost its momentum with a change of federal administration. The charges were overturned in 1927 by the Eighth Circuit Court of Appeals.

Answering the third question about economic integration, Godfrey gives details of negotiations with Eastern financial magnate Henry Havermeyer of the American Sugar Refining Company, who invested in Utah-Idaho Sugar Company in 1901 by offering \$18 a share, representing an \$8 premium over the current stock price. It was an offer management could not turn down. This brought U-I SC directly onto the national stage. It was now part of the Havermeyer-controlled group, which was seeking to get a hammerlock on sugar commerce in the eastern, central, and western United States.

U-I SC moved in lockstep with Havermeyer, overpricing its sugar to the national market. When sugar prices suddenly dropped, U-I SC was caught with bloated costs and, instead of slimming operations, attempted to pay less to the farmers for their sugar beets. This caused a depression in the farming communities, one that seems to have been caused directly by the shortsightedness of management and its lack of sympathy for the farmers.

Subsequently, after the U. S. investigation began, Havermeyer sold his interest in U-I SC back to the Church, which further lowered the value of the company. This left company management with a dilemma, not able to seek new investors because of steadily decreasing value in the company but locked into costly operating and maintenance budgets. With insufficient

funds to streamline operations, U-I SC became one of the most expensive sugar factory operations in the country.

The integration of Utah's economy into the national scene forced Utah-Idaho Sugar into a defensive posture where management tried to force out potential competitors and entered into unlawful agreements with the Amalgamated Sugar Company in restraint of trade.

How did LDS Church leadership back U-I SC's position? Godfrey points out that U-I SC's management, having been caught by recently enacted antitrust laws, called upon the influence of Senator Reed Smoot in Congress, depended on the defensive arguments mustered by businessman and Church leader Charles W. Nibley, and eventually was defended by President Joseph F. Smith's testifying before the Federal Trade Commission. The Church continued to be a central force in backing the company, despite repercussions for both. Although leaders originally saw the sugar industry as an economic benefit to local members, a changing economy and political environment could not sustain the industry's protectionist attitude. Market forces and government controls eventually dominated, even though Church leaders tried to hold the company back from true integration into the national competitive economy.

The Church had sacrificed much to found the industry for local employment and self-sufficiency in the 1890s. But Church officials were now stockholders who benefited when U-I SC showed profits, so it appeared that the Church and company worked together to maintain its place in the western economy. After the commission investigations, Heber J. Grant became increasingly sensitive to the need to allow fair competition. He adopted practices in the 1920s to support nonchurch businesses, even when such dealings hurt Church enterprises. Only in the latter part of the twentieth century did Church leaders divest themselves entirely of directorships and business management.

Godfrey expertly explains how authorities of The Church of Jesus Christ of Latter-day Saints, including general, stake, and ward leaders, influenced members to purchase sugar produced by U-I SC and to raise sugar beets for only this company. I commend him for researching a heretofore unknown crisis in an industry that experienced extensive participation by both Mormon farmers and Church leaders. I was surprised to find that Mormon farmers' loyalty to their Church translated so strongly to loyalty towards U-I SC, even when their own financial stability was being compromised. Logically, the company and the farmers should have been on opposite sides, but the religious factor altered the contours of the conflict to the ultimate benefit of both.

I found no errors in Godfrey's economic facts, technical details, or political analysis. From my perspective as a long-time sugar industry engineer interested in Mormon Church history, I am impressed with Matthew Godfrey's perceptive and thorough research and his astute comprehension of the many intertwining forces at work.

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Douglas Thayer. *The Tree House: A Novel*.

Provo, Utah: Zarahemla Books, 2009.

Reviewed by Phillip A. Snyder

Douglas Thayer has always been a wonderful writer of male initiation stories, beginning notably with “The Red Tail Hawk,” originally published in *Dialogue*<sup>1</sup> and included as the first story in his 1989 collection *Mr. Wahlquist in Yellowstone*<sup>2</sup> as “The Red-Tailed Hawk.” In this story, Thayer explores the grim and beautiful process by which his unnamed teenaged protagonist comes to apprehend his own mortality in connection with a disastrous solo goose hunt he undertakes one December just before Christmas. The first-person narrative accounts well for both the external and internal struggles of a young man intent on becoming one with nature—literally as well as philosophically—particularly as he tries to turn killing and taxidermy into effective modes of life preservation. He yearns to touch the living birds with which he identifies so strongly for their solitary freedom in the sky and for their aloofness from the earth-bound world of humans, a world he has come to despise. He immerses himself in their natural world and risks his life to approximate their existence: “I lived my real life in the [river] bottoms, fished, swam, climbed the high trees, embraced limbs, sometimes ran naked and alone through the green willows, lay spread-eagle under the sun, soared on the great rope swing, hunted the birds, killed them.”<sup>3</sup> However, he remains blind to the hypocrisy of his own hunting ethic and, seriously misjudging his dominance over nature, takes himself to the very brink of death in a freezing snow storm:

All summer the cows had been vanishing, the wire-hung birds too, the carp, the little buck. And I had no name for it, only vanishing, knew only that it was not swimming, not running naked in the moonlight, not embracing trees, not soaring. It was not feeling. I grew whiter, saw myself vanishing into the snow. I watched, and then slowly, like beginning pain, the terror seeped into me, the knowing. I struggled up, fled.<sup>4</sup>

This climactic epiphany in “Red Tail Hawk” precipitates in the protagonist an immediate reconsideration of his desire to merge into nature,

illustrating also the well-worn truism that young people possess a naïve notion of their own immortality, one from which they must be disabused. It thus also reaffirms the thematic heart of this initiation story, which ends with the main character's reconciliation to living in the warmth of the human world. As all successful initiates do, he learns he must carry the traces of his initiation experience—in this case, a left hand mutilated by the amputation of three frost-bitten fingers—into the future with him, much like Samuel Taylor Coleridge's *Wedding-Guest*, "a sadder and a wiser man."<sup>5</sup> In narrative retrospect and with newly-earned maturity, Thayer's protagonist sees his encounter with death as a gift and also sees his stuffed and mounted specimens for what they are: dead, dusty, and wholly inadequate representations of the ineffable presence of life.

Thayer's newest novel, *The Tree House*, takes up similar initiation themes according to the traditional pattern of the *bildungsroman*, a novel of apprenticeship and development, but with even more profound ethical implications. Like most *bildungsroman* examples from the Anglo-American canon, *The Tree House* follows a male pattern of development as its protagonist, Harris Thatcher, grows toward adulthood in the wake of his father's and his steady girlfriend's premature deaths. Harris then leaves his Provo home to serve an LDS mission to a recovering post-World War II Germany, and soon after his return home leaves Provo again as a draftee in the Korean War. Accordingly, Thayer divides his novel into three main sections—"Provo," "Germany," and "Korea"—finishing with a short epilogue-like return to Provo that brings his initiation story full circle.

This archetypal return, however, is hardly triumphant for Harris, who has seen too much indiscriminate destruction, war, and death to view his survival as anything more than blind luck or indifferent fortune. His dearly bought maturity brings Harris little personal satisfaction or sense of accomplishment because, of course, true maturity understands its own limits and greets itself with humility rather than with self-congratulation.

As his German landlady, the astute, well-educated Mrs. Meyer, tells him, Harris is fundamentally good. She provides the novel's most insightful assessment of Harris's essential character:

"Manfred [Harris's first companion] is passionate about his Mormon faith, but you are not. You are religious, but you are not passionate in that sense. You are not that kind of person. You should not let this bother you. For you being religious is enough because your goodness does not come from your faith. You are good by your very nature. . . . You are not willing to lose yourself, to live only by faith, I do not think, at least not yet. It is difficult to be reasonable. It is often painful, but it is a way to learn. Perhaps someday you will become passionate, a man of faith, but it will be difficult for you." (165)



It is debatable whether Harris achieves this passionate faith by the end of the novel, but it is certain that his essential goodness (along with his strict adherence to LDS standards in his personal comportment) remains intact throughout everything he experiences. In that sense, he always remains true to the faith, although he temporarily abandons his prayers, scripture study, and church attendance at certain points in the narrative, notably during his time as a soldier and immediately thereafter, as he adapts himself physically and emotionally to his environment.

Nevertheless, Harris's goodness becomes even more enhanced by virtue of its having endured so many trials and so much personal grief. As Mrs. Meyer correctly predicts, Harris's life *is* difficult—made so mostly by external factors he cannot control, but also by his stoic adaptation to every situation that comes his way. Harris knows how to take a punch and keep fighting. Unfortunately, his self-contained stoicism creates some collateral damage by requiring him to suppress his emotions, which suppression, as Mrs. Meyer observes, keeps him from losing himself and cuts him off from spiritual feelings. In this suppression, Harris is unlike Luke, his best friend from childhood, and Elder Sturmer, his missionary role model, both of whom open themselves up to religious feeling and lose themselves in their passion for their faith, whatever the circumstances. Neither Luke nor Elder Sturmer is a stock stereotype of Mormon male perfection, but Harris, ignoring or underestimating his own gifts, sometimes views them as exemplars beyond his capacity to emulate.

The "Provo" section of *The Tree House* covers the same time period as *Hooligan: A Mormon Boyhood*, Thayer's fine 2007 memoir,<sup>6</sup> and paints a similarly accurate portrait of Provo during a transformative historical time. In *Hooligan* Thayer shows us distant national and world events through the first-person consciousness of a naïve, Huckleberry-like Mormon boy trying his best to reflect his community's notion of responsible manhood. Thayer translates these events within local contexts: the Movietone News in the local theater, the family radio, the local paper, the stars displayed in the front windows of houses along familiar streets. This translation renders catastrophic world events as evocative images within the intimate confines of a boy's protected world. In *The Tree House*, this world is represented by the tree house that Harris's father, Frank, has built for him. It functions very early on as a refuge for Harris and later as a touchstone for his innocent youth as well as his father's relatively carefree life of teaching, Scouting, hunting, fishing, swimming, and puttering around in his shop. Unlike his son Harris, Frank never serves as a missionary or a soldier but spends his life in the pursuit of pastimes and resists any intrusions on his pursuits. He is a wonderful

father and a good high school biology teacher and Scoutmaster, but, as Harris understands later in the novel, Frank lives a relatively selfish and largely unchallenged life. Harris, however, does not have the same luxury because his father dies of diabetes complications at the beginning of the novel's second chapter, forcing Harris to come down from the tree house permanently and take up the responsibilities of adulthood.

In this respect, *The Tree House* title does not reflect very well the central developmental themes of the novel or serve as a very productive motif; something like *The Education of Harris Thatcher*—to parallel Thayer's earlier novel *The Conversion of Jeff Williams*<sup>7</sup>—might work better, especially because *The Tree House* is a prequel to *Jeff Williams*. Although Thayer references the tree house intermittently throughout the first "Provo" section to illustrate Harris's having turned away from childish things, it does not figure much in "Germany" or "Korea" and reappears at the end of the second "Provo" section to tie up the novel by reinforcing the permanence of Harris's family memories and relationships despite every loss he has endured.

Thayer's authentic and compelling depictions of Harris's Provo life, his mission in Germany, and his military service in Korea depend on a sparse, realistic, almost transparent prose style that suits the narrative focus beautifully as it reflects Harris's thoughts and sensibilities. Thayer restrains his third-person, limited omniscient point of view, revealing just enough of Harris's immediate consciousness to keep us tuned in to the moment, and resists the temptation to indulge in heavy-handed, deterministic foreshadowing. Even the central motif of the novel—fire—weaves itself consistently but subtly throughout the narrative, representing at once destruction and death, refining experience, and spiritual enlightenment. Evidence of World War II firebombing destruction, for example, pervades the "Germany" section, and Harris sees Germans working to rise out of the ashes of war both literally and figuratively. In his missionary contacts, he meets people who have responded very differently to the destruction they have experienced. Mrs. Meyer and Elder Sturmer have been refined by the fires of war and have emerged stronger and more humane, she as a philosophical humanist with enduring faith in humanity's ability to share responsibility for evil, and he as a stalwart Latter-day Saint with enduring faith in the power of Christ's Atonement to transform lives. Others have emerged bitter toward both mankind and God or arrogant in their stubborn nationalism. One unnamed woman, crippled in the war, her husband and children and mother killed by American soldiers and bombs, tells the elders before quietly closing her door, "Keep your Christ. I have no need for him or his wonderful love" (125). Heinrich Steuerman, a former fighter pilot Harris and Sturmer tract out, speaks of the early days of the

war as “splendid times,” bragging to them of the Allied planes he shot down and the men he killed, as well as the money he plans to make as a Volkswagen dealer (152).

For his part, Harris grows and matures as a missionary dedicated to his work and immersed in the German culture—his fellow missionaries nickname him “The German”—initially under the tutelage of Elder Sturmer and Mrs. Meyer. Their mutual influence on Harris is evident in a profound response he makes to a woman he and his new companion meet while tracting, who asks them to explain to her why her village, of no strategic importance, was bombed by the Allies: “Does God know why? Tell me.” Harris replies simply, “We are all guilty. We must forgive each other.” The woman responds: “Yes, that is true. I am guilty, too. One can only hope for mercy. There must be mercy somewhere. Thank you. Excuse me. I am cooking my food” (186).

Thayer’s portrayal of Harris’s development into a fine missionary partakes of the archetypal without losing its individuality in setting and personality. Harris’s personal assessment of his quest for a deep and abiding testimony, for example, reflects a solid doctrinal understanding of how revelation comes differently to different people—almost as if it had come from a bishop or a seminary teacher or an Apostle at general conference—to underscore the individuality inherent in self-development even within the *bildungsroman* pattern:

Sometimes Harris tried to imagine what experiencing the Holy Ghost would be like so that he would know the Church was true. He could hear a voice, see an angel, or be filled with a great burning feeling, as if his whole body were being consumed. Or it would be an absolute understanding, an incredible clarity, like pure knowledge. Or he would be filled with light. Or maybe his testimony would come just a little bit at a time. Maybe out tracting or at a cottage meeting, he would be surprised that he knew the Church was true. That sure knowledge would just be there in him and he would just know. This wouldn’t be startling or amazing in any particular way, but just something ordinary that happened.

Harris didn’t know how it would happen, but he kept waiting for it to happen. He understood now that testimonies came in different ways. He already believed in the Ten Commandments, the Sermon on the Mount, the Word of Wisdom. He believed in love, kindness, being morally clean, and people being resurrected. He taught those things. Harris believed the gospel helped people to be good and also happy. Rewards in the eternities didn’t interest him a lot, except being resurrected. He just didn’t quite know these things were true. Knowing had to be a different feeling than believing. He wanted to know. He prayed to know. (141–42)

In addition to articulating Harris’s personal perspective on testimony reception, this passage represents well Thayer’s deep understanding of

LDS doctrine and Mormon culture that informs *The Tree House* and his other LDS novels. It also demonstrates why reading Thayer can be such a rewarding experience: he grounds gospel principles in people who live in a world that is often full of accidents, illness, and evil to illustrate how grace and faith and fortitude can see them through even the most painful experiences. His fiction provides a serious, nuanced response to the simplistic and shallow philosophical question of why bad things happen to good people.

Thayer develops themes of grace, faith, and fortitude most profoundly in the “Korea” section of the novel in which Harris finds himself trained for and then immersed in war where decidedly bad things happen to this good young man. The descriptions of basic training and front-line fighting, much like the descriptions of Provo and Germany, are detailed and realistic as they are filtered through Harris’s consciousness. His perception of himself and the world about him has matured markedly as evidenced by the elegiac tone that tinges his leave time in Provo between basic training and transport to Korea. He takes the train home from North Carolina, partly because the Army would pay for it but mostly because it would give him time to think:

Sitting up watching out the window or lying in his berth, his hands under his head, staring up at the ceiling, Harris thought about the people he loved. More than anything he wished that his father, Abby, and his grandmother would be in Provo to greet him when he got home.

Harris thought about growing up, about high school, life in the Sixth Ward, his family, the Starlite Café, college, the Church, his mission, and being in the army. He didn’t have any big questions to ask. It just seemed important to remember things and feel the happiness and the sadness the memories brought and just know it was all part of his life.

Harris thought about what it would be like to have Abby waiting for him to put his arms around her and kiss her, hold her tight, tell her he loved her. They might even have been engaged and then gotten married when he was home. But bringing back all that feeling didn’t work as well as it used to. Abby was fading in his memory, just like his father and his grandmother. . . . He tried to imagine seeing them all again in the next life. It was hard to do. (259)

These nostalgic memories of dead loved ones and of past experiences underscore Thayer’s development theme, reminding us that they mark significant events in Harris’s maturation that have prepared him for future events. One of the most important memories Harris ponders during his leave, for example, is his recollection of the war stories narrated by Jack, cook and pie-maker at the Starlite Café where Harris had worked since his father’s death:

Jack had told him a lot of horror stories about World War I—men being blown to bits by artillery, going insane under the week-long barrages, dying from the chlorine and mustard gas attacks. . . . Harris understood how all of Jack's stories had helped prepare him for being in the army. Basic would have been a lot harder if he hadn't had Jack's stories. Harris was grateful. A boy needed a man's stories to help prepare him for his own life. (266–67)

Jack's stories fortify Harris as he is required to conduct the dirty and deadly business of a soldier—all against a surreal backdrop of foul stench, unsanitary quarters, insufficient personal hygiene, flies, rats, snipers, artillery, mortars, and more, accompanied by a soundtrack from a North Korean disk jockey piping propaganda and playing hits like "Some Enchanted Evening." Harris comes to understand that he is enacting war according to historical and even universal patterns and finds himself disconnected from his faith:

Harris's testimony, what he believed or didn't believe about God, or anything else, really seemed to make little difference. The ridge did not seem like a place for religion, for asking God or Jesus for protection, or discussing the atonement or the redemption of mankind, not a place for Luke. Men on both sides shot prisoners, mutilated the dead, tortured the living, all of it a part of war, of bloody hate-filled war and always had been. (296–97)

Nevertheless, however honest and powerful and valid these personal observations seem to be, Harris turns out to be very wrong about Luke, who serves in Korea as a medic but who does find a place for himself and for God in the midst of the carnage.

*The Tree House* can function in much the same way that Jack's stories do in the novel: it can help prepare its readers for life, which, as Thayer shows us, can be full of accidents, illness, and evil, but he also shows us that these can be mediated by grace, faith, and fortitude. Harris is almost destroyed by Korea, spiritually as well as physically. As he walks through the hospital wards during his recovery, he feels himself on the very edge of his considerable self-control, struggling to reconcile his religious beliefs with the physical and psychological wounds that surround him. As always, Harris ponders the meaning of everything:

You touched a woman's hair, you baked a couple of pies, and you thought you were going to be okay. . . . It wasn't possible. Not all the faith, pity, and compassion in the world could make it okay. And the idea that Christ somehow took upon himself all the suffering, pain, and sorrow of mankind down through all the ages, all of those billions and billions of people, was bewildering to Harris. How could Christ do that? Harris didn't have the faintest notion and understood finally that he had no faith, perhaps never had, that he'd been fooling himself. (345)

It takes a supremely confident LDS writer to put those lines into Harris's mind, to articulate so starkly the thoughts that would almost certainly be swirling around any wounded LDS soldier's head in circumstances similar to Harris's. Thayer's confidence comes from the ethical foundation of his life and art, as well as from the experience of teaching college students at BYU for fifty years and of writing many initiation stories. Like the young protagonist of "The Red-Tailed Hawk," Harris ends up being saved by someone who brings him back to the warmth of human relations and also reminds him of who he is, what he knows, and how he needs to change despite his literal and figurative scars. Harris has never had any problem with fortitude, but faith and especially grace have been harder for him to embrace, so it is fitting that he comes back to them with an open heart at the end of this *bildungsroman* to accept the proverbial "peace of God, which passeth all understanding . . . through Christ Jesus" (Philippians 4:7). Thayer tempers this happy ending by embedding the novel with stories of people like Jack who never choose to recover themselves and their faith fully after war, reminding us that not all initiation stories, or real lives for that matter, are fulfilled according to the traditional pattern of achieved wholeness. Coming to full spiritual and social maturity is fraught with difficulty and cannot be undertaken or described using simplistic clichés. Writing about it requires a serious degree of good old-fashioned verisimilitude, which is one of Thayer's great strengths as a writer.

Despite his being awarded the 2008 Smith-Petit Foundation Award for Outstanding Contribution to Mormon Letters by the Association for Mormon Letters, Douglas Thayer has long been an underappreciated voice in the world of Mormon literature. With the recent publications of *Hooligan* and *The Tree House*, he has enjoyed a sort of renaissance, and, with a new collection of short stories due out in late 2010 or early 2011, also from Zarahemla Books, that renaissance is sure to continue. However, because so many of his books are out of print, it will be difficult for new readers to access his earlier texts. With Thayer in his eightieth year and contemplating retirement from BYU, now would be a perfect time to reissue his work so general readers, as well as scholars, could review the very fine career of a pioneering writer of Mormon and other western fiction. Thayer and his writing deserve no less than that.

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*The Cormac McCarthy Journal* 6 (Autumn 2008): 69–86, and *Post-Manifesto Polygamy: The 1899–1904 Correspondence of Helen, Owen, and Avery Woodruff* (Logan: Utah State University Press, 2009).

1. Douglas Thayer, “The Red Tail Hawk,” *Dialogue: A Journal of Mormon Thought* 4 (Autumn 1969): 83.
2. Douglas H. Thayer, *Mr. Wahlquist in Yellowstone* (Salt Lake City: Peregrine Smith, 1989).
3. Douglas H. Thayer, “The Red-Tailed Hawk,” in Thayer, *Mr. Wahlquist*, 5.
4. Thayer, “Red-Tailed Hawk,” 16.
5. Samuel Taylor Coleridge, “The Rime of the Ancient Mariner,” in *The Norton Anthology of English Literature, Volume D: The Romantic Period*, 8th ed., ed. Jack Stillinger and Deidre Shauna Lynch (New York: Norton, 2006), 446.
6. Douglas H. Thayer, *Hooligan: A Mormon Boyhood* (Provo, Utah: Zarahemla Books, 2007).
7. Douglas H. Thayer, *The Conversion of Jeff Williams* (Salt Lake City: Signature Books, 2003).

Robert Alter. *The Five Books of Moses:  
A Translation with Commentary.*

New York: W. W. Norton, 2004

Reviewed by Roger G. Baker

There are Bibles aplenty in our world, hundreds if Amazon.com is any guide. In late 2009, Amazon listed over one thousand books on its Bible hit list that have not even been released yet. Over one thousand new books of the roughly 450,000 listed Bible hits portend heavy reading this year for those who try to keep up with things biblical.

A beneficial search in this swim through the Amazon of books is for new Bible translations, which now seem plentiful, although there were very few in the years after King James. An almost three-century gap separates the King James Version (KJV) in 1611 from the next major English translations, the English Revised Version (ERV) in 1881–85 and the American Standard Version (ASV) in 1901. And even though new translations were more frequent in the 1900s, it was not until 1988 that another version, the NIV (New International Version, first published in 1973), outsold the Bible of the Reformation and Restoration that Latter-day Saints still use.<sup>1</sup>

The question for Latter-day Saint readers is whether or not any of the new translations are important enough to supplement the Authorized Version, or King James Version, which is most commonly used in the Church. In regard to other translations, the Latter-day Saints may sometimes harbor the same mindset we read about in 2 Nephi 29:3: “A Bible! A Bible! We have got a Bible, and there cannot be any more Bible.” Of course, it is unlikely that another translation will match the King James Version in poetic power, but the Saints can learn and benefit from new translations used alongside the familiar Bible.

A reverent familiarity with the King James Version quickened the spirit of Joseph Smith as he petitioned for wisdom during the translation of the Book of Mormon. But it is fair to ask if any Bible translations since the masterpiece of 1611 are valuable to the modern Saints, who live with the caveat “as far as it is translated correctly” (Articles of Faith 1:8). For example, the Saints might want to look at the NRSV (New Revised Standard

Version) of 1989 because it “corrects” prior translations with footnotes to the Dead Sea Scrolls.

The latest serious translation of the Bible that may be inviting to Latter-day Saint readers is *The Five Books of Moses*, translated by Robert Alter, a well-established Berkeley professor of Hebrew and comparative literature. Alter has taken biblical studies in a literary direction over the past few decades with such works as *The Art of Biblical Narrative* (1983) and *The Art of Biblical Poetry* (1987). Alter invites us to enjoy the pure pleasures of literature as we read the Bible. Similarly, Alter first justifies his newest work with a literary argument:

Broadly speaking, one may say that in the case of modern versions, the problem is a shaky sense of English and in the case of the King James Version, a shaky sense of Hebrew. The present translation is an experiment in re-presenting the Bible—and, above all, biblical narrative prose—in a language that conveys with some precision the semantic nuances and the lively orchestration of literary effects of the Hebrew and at the same time has stylistic and rhythmic integrity as literary English. (xvi)

Alter accomplishes this objective, and the literary reader will enjoy the style. He is not only successful with his translation, but he also offers footnotes that give insights into his translation decisions. For example, KJV readers come to “firmament” in Genesis and may wonder about its definition, even after noting that the footnote suggests “expanse.” Although Alter’s word choice, “vault,” may lack the poetic ring of the familiar KJV “firmament,” the reader can turn to the footnote and see exactly why Alter chose the term.

Alter also helps the reader with the familiar terms “man Adam” and “Adam,” and in this translation the “help meet” Eve is a “sustainer.” The list of specific footnoted word helps could go on and on. The word in Genesis translated by the King James translators as “know” can be a real problem. The verb *yada*, translated as “know,” has three meanings in the early Genesis chapters: “to know,” “to understand,” and “to have carnal relations with.”<sup>2</sup> In the various instances *yada* is translated, Alter stays close to the Hebrew. He does make a small change with a comma, rendering the phrase “the tree of knowledge, good and evil.” But the humans “know good and evil” and Adam “knew” Eve. Despite the word helps, it is quickly apparent that Alter is translating the Bible, not explaining it.

Alter’s overall translation is successful because he treats each of the five books of Moses as a coherent book. The academic world has been arguing for two centuries about the four writers whose narrative threads intertwine in Genesis. This documentary hypothesis has fractionalized the scenes of

the Bible's founding narrative. It is interesting that readers do not obsess with explaining every contradiction in an epic novel, but they do when reading Genesis. In such explaining, we find what Alter calls "the unacknowledged heresy underlying most modern English versions of the Bible" (xiv). Modern translators, whether secular or sacred, try with their translations to explain the Bible. A secular, academic translator may try to explain the seven pairs of clean animals in Genesis 7 and the single-paired animals in the flood story in Genesis 6 as a merger of two documents or manuscripts. The sacred, religious translator may downplay any discrepancies and unify the text with doctrinal explanations—the law of animal sacrifice would make it necessary to bring seven pairs because, obviously, sacrificing one member of a sole mating pair would eliminate the species.

It should not be a surprise that the Bible translation heresy is often taken to excess. Fellow "heretics" have spent reams of papyrus, parchment, and paper on small details such as the 153 fish caught in John chapter 21, to the point that now the multifarious explanations on the mysteries of the number 153 have their own Wikipedia entry.<sup>3</sup> How refreshing to read Alter's translation, which does not try to explain the Bible.

Alter's objective, to avoid the translation heresy of explanation, succeeds for the literary reader. Alter uses English that is loyal to the Hebrew text and captures the nuances of poetic device, both in Hebrew and in English. His translations let the poetry stand. They remain in the spirit of Archibald MacLeish's well-known couplet: "A poem should not mean / But be." And because Alter is a faithful poet, we discover that the first poem in the Bible comes early on in Genesis 1. The announcement of Eve's creation is a poem recited by Adam:

This one at last, bone of my bones  
and flesh of my flesh,  
This one shall be called Woman,  
For from man was this one taken. (22)

The poetry continues; the curse imposed on the first parents is a poem, and God confronts Cain with a poem. The deluge sent by God begins in a poetic rush:

All the wellsprings of the great deep burst  
And the casements of the heavens were opened. (44)

Along with the poignant poetry are crisp narratives, even some that make us smile at the last punch line, as when Sarah doubts the possibility of pregnancy in her old age:

And Sarah was listening at the tent flap, which was behind him. And Abraham and Sarah were old, advanced in years, Sarah no longer had

her woman's flow. And Sarah laughed inwardly, saying, "After being shriveled, shall I have pleasure, and my husband is old?" And the LORD said to Abraham, "Why is it that Sarah laughed, saying, 'Shall I really give birth, old as I am?' Is anything beyond the LORD? In due time I will return to you, at this very season, and Sarah shall have a son." And Sarah dissembled, saying, "I did not laugh," for she was afraid. And He said, "Yes, you did laugh." (87)

Bible translations of this passage do not get better than this, yet the Authorized Version is not about to be replaced. There are some superior KJV passages that live in the spiritual DNA of Bible readers. When the King James translators had Abraham answer Isaac's question about the lack of an offering with "God will provide himself an offering," they opened a metaphorical understanding of the Atonement not present in Alter's "God will see to the sheep for the offering, my son."

Though memorable KJV phrases will never be replaced, Alter's *The Five Books of Moses* deserves a place more prominent than on a library shelf of Bible translations and commentaries; it should be on the bed stand to be read and enjoyed.

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1. Jack P. Lewis, "King James Version," in *The Anchor Bible Dictionary*, ed. David Noel Freedman, 6 vols. (New York: Doubleday, 1992), 6:833.

2. Gerald Hammond, "English Translations of the Bible," in *The Literary Guide to the Bible*, ed. Robert Alter and Frank Kermode (Cambridge, Mass.: Belknap Press of Harvard University Press, 1987), 652; see also 647–66.

3. St. Jerome, the translator of the Vulgate, wrote that the very specific number, 153, was the number of species of fish. The symbolic implication is that every kind of fish (or person) is caught in the gospel net.

Christian Vuissa, director. *One Good Man*.

Provo, Utah: Mirror Films, 2009

Reviewed by Jim Dalrymple

I had high hopes but reserved expectations while driving to see Christian Vuissa's latest film, *One Good Man*. Though LDS cinema seems to have cooled and matured somewhat in recent years, it is nonetheless a movement that has generally been hit-and-miss at best. *One Good Man* comes as a welcome transition to deeper, more complex filmmaking. The film is far from perfect—it includes its fair share of cultural clichés and clunky sentimentality—but it also marks an insightful and timely turn toward a more intimate, nuanced exploration of LDS themes and culture.

*One Good Man* portrays a few days in the life of Aaron Young, an LDS father of six whose life appears to be reaching critical mass. As the film opens, Aaron has one son serving an LDS mission, a daughter preparing to get married, and a rebellious teenager. Compounding his stressful home life, Aaron's boss demands that he lay off one-fifth of the company's workforce to deal with the hard economic times. Just when Aaron thinks he cannot get any busier, he is called to be the bishop of his ward.

While the opening scenes expose one conflict after another, the remainder of the film stands back and allows these challenges to play out at their own pace. The result is illuminative. When Aaron comforts an elderly ward member, for example, or assuages the fears of his daughter's non-Mormon in-laws, he is forced to adapt to a difficult situation. The decisions he makes are rendered as profound cinematic explorations of both the rewards and the challenges of being a Latter-day Saint. While some conflicts get resolved on-screen, others do not: Aaron works as a member missionary but without substantial results to speak of; he succeeds at work but is still dissatisfied with his job; his daughter gets married in the temple but never fully makes peace with her in-laws. By film's end, the most substantial resolution is simply Aaron's added maturity for having had certain experiences. In this sense the film is more a "slice of life" story than one that follows typical story form; although there is



a beginning and an end to what the audience sees, there is no message about problems in life being solved quickly or easily.

To Vuissa's credit, he knows who the film's stars are and gives them time to shine. Clearly the strongest asset of the film is Tim Threlfall's portrayal of Aaron. As the thoughtful but unassuming protagonist, Threlfall's performance reaches into a complex realm that few, if any, other LDS films have dared to tread. His character often appears to be simultaneously rejoicing and grieving, offering thanks and questioning why. The most salient acting moments come when one tragedy or another strikes. In these moments, the camera lingers long enough for Threlfall's performance to become a viscerally affective powerhouse of a man who is crushed. Though in these scenes he is usually alone and there is little dialog, Threlfall manages to portray a genuine grappling of the soul.

Adam Johnson portrays James Wellington, Aaron's non-LDS friend and coworker. Johnson provides comic relief that manages to be appealing while not stereotypical. Johnson's success seems to stem from an understanding of his character's internal conflicts: while James is happy and carefree, he is also anchorless and lonely. The result is a complex character who is both inviting and sympathetic. Where Threlfall's character deals with his challenges through varied emotional progressions, Johnson uses humor, providing some of the film's most entertaining moments.

Complementing the strong performances, *One Good Man* demonstrates some remarkable cinematography. Vuissa wanted to establish Salt Lake City itself as a character, and cinematographer Brandon Christensen's long, architecturally oriented shots succeed in tying the narrative to a unique physical space. Of course, Vuissa is no stranger to visually impressive cinema; the strongest aspect of his previous film, *Errand of Angels*, may well have been its portrayal of lush, Austrian locales. *One Good Man* is set in an environment that will undoubtedly seem less exotic to his audience, which in turn seems to have prompted greater creativity. While there are no thousand-year-old buildings to fill the frame, shots are composed in such a way as to visually challenge viewers to read new meanings into familiar settings. This rendering of Salt Lake City is even more remarkable considering the film was shot with a minimal budget of \$200,000.

Though *One Good Man* represents a significant evolution for both LDS cinema and Vuissa, it is not, of course, perfect. Specifically, the music frequently dips toward the melodramatic, sometimes making the film feel didactic and preachy. If the actors' performances are sensitive and explore the complicated nuances of life, then the music hits the audience over the head, telling them explicitly which emotion is appropriate for the scene. When Threlfall masters the simultaneous expression of exuberance and

melancholy in a scene, the music cuts against his performance, reducing its poignancy.

The inadequacies in the music are compounded by the lack of story continuity. As both writer and director, Vuissa seems to have a knack for tapping raw human conflicts in everyday life; what links these conflicts, however, is more hit-and-miss. Many of the expository scenes unfold less gracefully than the more climactic moments. Thus, while there is rarely a moment that is not at least sweet and sincere, the emotional depth that the film achieves as a whole is less even.

Though *One Good Man* is not perfect, it offers a remarkably nuanced interpretation of its subject matter that I thoroughly enjoyed watching. Vuissa has said that he set out to make a film about a bishop, or a “judge in Israel,” but ended up making a film about a father who also happens to be a bishop. The comment is apropos given that Vuissa’s small body of work thus far is about individuals juggling various identities. In this way, *One Good Man* is less about teaching people about Mormonism (or making them laugh at its idiosyncrasies) and more about sharing what it means to be human.

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Jim Dalrymple (who can be reached via email at [byustudies@byu.edu](mailto:byustudies@byu.edu)) recently completed an MA in English at Brigham Young University where he studied literary and cinematic depictions of the American West. He has also worked as a filmmaker and journalist and will begin his doctoral project in 2010.

*A Different God? Mitt Romney, the Religious Right, and the Mormon Question*, by Craig L. Foster (Salt Lake City: Greg Kofford Books, 2008)

As can be expected from a book published by Greg Kofford, Craig L. Foster's *A Different God?* is well researched and engaging. This book begins by examining the rise of the religious right and the power it exerts on the current political landscape. Foster presents a good deal of information that most Latter-day Saints will not be well acquainted with, such as the difference between evangelical and fundamentalist Christians, the emergence of the charismatic movement, the rise and fall of the Moral Majority, and the subsequent establishment of the Christian Coalition. This background is particularly pertinent to the majority of Mormons in the western United States who align themselves with the Republican Party.

Foster also gives a concise but surprisingly comprehensive summary of the political history of the Latter-day Saints. Because official Church curriculum does not address in detail the period from about 1850 until World War II or even later, most Mormons are rather uneducated regarding their political past, particularly the theocratic era that prevailed until the Edmunds-Tucker Act precipitated several changes, including the Manifesto in 1890 and the disbanding of the People's Party in 1891. The fact that most Mormons at the time gravitated toward the Democratic Party might surprise some of their modern descendents.

While Foster, an ardent Romney supporter, is admirably objective about the many weaknesses that undermined Mitt Romney's run for the Republican presidential nomination, his thesis in this book is that these flaws could have been overcome if not for a larger issue that eventually doomed the Romney campaign: the Mormon Question. This

book apparently went to press after John McCain had secured his party's nomination but before he had selected his running mate, but it still has validity far beyond the 2008 presidential primaries. His thorough examination of the strong anti-Mormon sentiment that still seethes in America, especially among the religious right, will be relevant if Romney runs again in 2012 or if any other Latter-day Saint takes aim at the presidency in a future election.

Even though Foster doesn't quite arrive at this particular destination, the sobering conclusion that his presentation inevitably yields is that if a Mormon is to be elected United States president in the foreseeable future, he or she may have to run as a moderate Republican or, perhaps even more realistically, as a moderate Democrat.

—Roger Terry

*Proclamation to the People: Nineteenth-Century Mormonism and the Pacific Basin Frontier*, edited by Laurie F. Maffly-Kipp and Reid L. Neilson (Salt Lake City: University of Utah Press, 2008)

Laurie F. Maffly-Kipp (Associate Professor of Religious Studies at the University of North Carolina, Chapel Hill, and author of *Religion and Society in Frontier California*) and Reid L. Neilson (Assistant Professor of Religious Studies at Brigham Young University and author and editor of several books, including *Taking the Gospel to the Japanese*) combine their expertise in this latest volume, *Proclamation to the People: Nineteenth-Century Mormonism and the Pacific Basin Frontier*. The Pacific Basin extends "from the west coast of the United States and South America, across the Pacific Islands from Hawaii to Tahiti, down to New Zealand and Australia, and up to Japan" (3). Maffly-Kipp and Neilson acknowledge that such a broad stretch of geography cannot be

covered in detail in a 350-page book: “A single volume of essays can highlight only a few specific geographical areas and historical moments” (4). However, readers interested in early Mormon history outside of the Intermountain West will find that this book provides unique glimpses into what was happening elsewhere in the world. “The Pacific Basin has been a crucial part of Mormon history for nearly the entire lifespan of the LDS Church” (3), the editors note. The gospel was preached in Australia and Tahiti before the Saints arrived in Utah, and shortly thereafter the work spread to Hawaii.

*Proclamation to the People* is divided into five sections: the Pacific Basin Frontier, with an introduction surveying the religious history of the entire area; the Americas, which includes essays on San Bernardino, Parley Pratt’s mission to Chile, and Pratt’s relationship with the San Francisco press; Polynesia, which covers both members and missionaries in Polynesia and the Polynesians who settled Iosepa, Utah; the region known as Australasia, which examines the gathering of Australian Saints and missionary work in New Zealand; and Asia, which describes Mormons’ encounters with and perceptions of Asians, both in the Pacific and in Utah.

I especially enjoyed Maffly-Kipp’s essay in which she challenges the dominant narrative of mainly “westward movement, of gradual and inexorable discovery of distant things by people from eastern states.” She argues that all the movements, “northward from Mexico, southward from Canada, and especially eastward from Asia” (22) “have contributed to our present religious climate” (41).

I also appreciated “The Rise and Decline of Mormon San Bernardino” by Edward Leo Lyman, who explains why “the spirit of cooperation and har-

mony” disappeared and “why the successful Mormon community of San Bernardino disintegrated so rapidly” (51). And those who have served missions may feel more gratitude for the well-defined structure of their missions as they compare their experiences to those in “Mormon Missionary Wives in Nineteenth-century Polynesia.” Carol Cornwall Madsen writes that these missionary wives suffered “ambivalence of church leaders toward female participation in the missionary enterprise and ambiguity in articulating their roles” (142). Finally, I found it fascinating to learn that Charles LeGendre, a French-American advisor to the Japanese government, proposed inviting Utah Mormons to colonize Hokkaido, Japan. Sandra C. Taylor writes that LeGendre “had nothing but praise for . . . social and cultural attributes of the Mormons,” including polygamy (287).

Readers who are interested in the Pacific Basin or worldwide Church history will find much to enjoy in this volume. *Proclamation to the People* makes a unique contribution in the sense that, until now, most religious studies of this region have examined Catholic and Protestant influences.

—Kimberly Webb Reid

*In God’s Image and Likeness: Ancient and Modern Perspectives on the Book of Moses*, by Jeffrey M. Bradshaw (Salt Lake City: Eborn Publishing, 2010)

Author Jeffrey M. Bradshaw, PhD in cognitive science and a senior research scientist at the Florida Institute for Human and Machine Cognition (IHMC), has written professionally on various topics in human and machine intelligence, has presented at meetings of the Foundation for Apologetic Information and Research (FAIR), and has published articles on Mormon themes appearing in 2009 and 2010. The central focus of this book is an exegesis of the

“book of Moses, a revelatory expansion of the first chapters of Genesis” and “Joseph Smith’s translation of the early narratives of Genesis” (xxi, xxii).

The core of the book, around which all the other six sections are shaped, is a 476-page commentary by Bradshaw of Moses chapter 1 through chapter 6 verse 12. The intent here is to provide the reader with both the “plain sense” of the scriptural words as well as their context and relevance to modern audiences. The stories of the council in heaven, plan of salvation, Creation, Fall, Garden of Eden, and others found in the Book of Moses are not only explained by the author but also illustrated with extensive excerpts from ancient texts, scholarly research, and explanations by LDS prophets. This is accomplished in three parts: the author’s commentary; 4,599 footnotes and 320 longer “endnotes” at the end of each of the six chapters of commentary; and 274 pages of detailed discussion (“Excursus”) of 55 subjects related to matters raised in the commentary. Following upon and excerpting the work of Hugh Nibley and John M. Lundquist, as well as other scholars, historians, and LDS leaders, the book also illustrates how temple themes are woven into and expand our understanding of the story the Book of Moses tells.

This book also offers useful study aids: thirty-two pages of beautiful color plates of artwork related to the stories of the Book of Moses, an extensive bibliography, an appendix with various LDS documents on the origin of man, and a 103-page “Annotated Bibliography of Ancient Texts Related to the Book of Moses and JST Genesis.” This bibliography lists and briefly describes ancient Near Eastern, Old Testament, Dead Sea Scrolls, Nag Hammadi, Gnostic, Islamic and other texts—so often cited in scholarly research. But for those not constantly working with these texts, this bibliography will be helpful.

At 1,102 pages, this tome is not for the casual reader. It appears to be intended not only as a commentary but also a reference book, amalgamating in one place all the current scholarly and prophetic knowledge concerning the Book of Moses and the doctrinal subjects it treats. This is an ambitious project. Its value to each reader will be determined by careful reading.

—Michael David Olsen

*Understanding Same-Sex Attraction: Where to Turn and How to Help*, edited by Dennis V. Dahle, A. Dean Byrd, Shirley E. Cox, Doris R. Dant, William C. Duncan, John P. Livingstone, and M. Gawain Wells (Salt Lake City: Foundation for Attraction Research, 2009)

Readers looking for a book that supports the idea of homosexuality being an innate part of one’s identity will not be interested in *Understanding Same-Sex Attraction: Where to Turn and How to Help*. Instead, the authors of this book assert the unpopular opinion, backed by scientific research, that same-sex attraction *can* be lessened or eradicated in those who desire change and are willing to try. Readers who empathize with the Church’s position on homosexuality will likely find hope and useful ideas in this five-hundred-page compilation, authored by professional psychologists and scholars. The book presents three angles on the topic: the doctrinal stance of the Church, current scientific research, and experiences related anonymously by Latter-day Saints who have dealt with same-sex attraction.

Section 1, “Laying the Groundwork,” examines common misconceptions about homosexuality and invites readers to reevaluate what they know. The second section, “Gospel Perspectives,” provides a doctrinal and spiritual foundation for the rest of the book.

Readers familiar with LDS teachings may not find many new ideas in this section, but two full chapters dedicated to what General Authorities have taught on the topic may be an especially useful reference for Church leaders. Other chapters included in this section focus on the necessity of trials, faith, and the Atonement and how to show love and support to those who feel same-sex attraction.

Section 3, "Scientific, Clinical, and Social Perspectives," offers a wide array of information for those who experience same-gender attraction and those who want to help them. Topics include how to choose a therapist, types of therapy used to treat same-gender attraction, how people can disclose their secret struggle to others, what parents and therapists can do to help children and adolescents who feel gender confusion, treating sexual addictions, and defending traditional marriage. The chapters that explain what science proves and what it cannot prove are particularly relevant for all Latter-day Saints, considering the public support gay rights activists have garnered in claiming that same-gender attraction is inherent and unchangeable.

Perhaps the most valuable contribution of *Understanding Same-Sex Attraction* lies in its combination of scientific evidence in section 3 and personal testimonials in section 4. Here essayists recount how they emerged from homosexual lifestyles to find satisfaction in rejoining the Church mainstream, some even finding success in heterosexual marriages (although the authors of the book are quick to warn against marriage as a "cure" for homosexuality).

The book concludes with appendices giving contact information for resources like LDS Family Services; Evergreen International, a nonprofit group dedicated to helping those who want to reduce their same-sex attractions; and Foundation for Attraction Research, the nonprofit publisher of this book.

As some professional and state organizations frown on therapists who believe in reorientation therapy—seeking to ban their practice, in some cases—this book fills a void. It offers hope, and it voices a conversation that has largely been silenced in the larger media due to political pressures. Latter-day Saints who read this book will find a well-rounded and compassionate view of the complex and oft-misunderstood challenge of same-sex attraction.

—Kimberly Webb Reid

*What's the Harm? Does Legalizing Same-Sex Marriage Really Harm Individuals, Families or Society?* edited by Lynn D. Wardle (Lanham, Md.: University Press of America, 2008)

Written by nineteen interdisciplinary authors and edited by BYU professor of family law Lynn D. Wardle, *What's the Harm?* responds to several questions concerning same-sex marriage: does legalizing same-sex marriage harm traditional families? Does it discourage responsible sexual behavior and procreation? How does it affect the meaning of marriage? Does it impair basic freedoms to citizens and institutions?

In this potpourri of scholarly and legal papers, attorneys, educators, family counselors, and even linguists document through scientific studies and court cases the consequences already inflicted on men, women, and innocent children through practices such as abortion and no-fault divorce. Because such practices contribute to the breakdown of families and have longitudinal and intergenerational effects, they provide the social, moral, familial, relational, political, and conceptual architecture of the community. The harms are seldom seen immediately by the general public. Likewise, the preponderance of evidence from more than a dozen authors is unified in agreeing that history, natural law, common law, and common sense uphold



traditional marriage. These authors passionately support marriage between a male and female as the foundation of family and community morality.

University of Minnesota law professor Dale Carpenter, in one of four chapters defending same-sex marriage, likens gay families to "a rising river, stretching across the country," and conservative opposition as a dam that blocks the way. "Impeded in its natural course, the river does not dry up. Its flow is simply redirected into a hundred rivulets and low pastures all around the countryside." Whether readers agree with Carpenter's views on same-sex marriage, he is right that such oppositional forces are not likely to retreat: "Many conservatives may think that the collateral damage that is being done by the opposition to gay marriage is worth it in the end" (324).

If there is going to be any resolution in this divisive debate, it will most likely take place in a flood of credible information. Such is the goal of Wardle's 393-page paperback anthology published by University Press of America. *What's the Harm?* is a critical and timely book for those of various religious faiths and political persuasions who desire to open a dialogue with those of differing views as well as to defend marriage in an educated way.

Perhaps the most unsettling analysis of potential damages to family, constitution, and society is in chapter 17, "Or for Poorer? How Same-Sex Marriage Threatens Religious Liberty," by Roger T. Servino. He describes the chilling effect that same-sex marriage would have on religious liberty and religious institutions should the Defense of Marriage Act (DOMA) be changed or repealed. Such a transformation would impact "adoption, education, employee benefits, health care, employment, discrimination, government contracts and subsidies, taxation, tort law, and trusts and estates." In turn, the new legal

regimes would "directly govern the ongoing daily operations of religious organizations of all stripes, including parishes, schools, temples, hospitals, orphanages, retreat centers, soup kitchens, and universities" (326).

Servino and other authors argue that "current law provides no room for non-uniform definitions of marriage within a state, it is all or nothing. But even across state lines it is difficult to countenance variable definitions . . . because of difficult questions like child custody. The high stakes reinforce the uncompromising posture of the contending sides." Legalizing same-sex marriage will further induce governments to strip benefits from religious institutions that refuse to treat a legally married same-sex couple as morally equivalent to a married man and woman (326).

Although supporting same-sex marriage in Canada, Martha Bailey's essay "Dwelling among Us" calls for "a more nuanced and careful response to this divisive issue. We do not all hold the same values, but we can agree on much, particularly on the importance of healthy human flourishing, tolerance and mutual respect." Genuine pluralism can flourish when differences are "debated rather than ignored." A unity can unfold in human affairs when we engage in what John Courtney Murray calls "the unity of orderly conversation" (160). *What's the Harm?* most certainly moves us in the direction of a more nuanced and careful response as well as orderly conversation while helping to flood us with balanced information.

—Alf Pratte

*It Starts with a Song: Celebrating Twenty-Five Years of Songwriting at BYU*, produced by Ron Simpson (Provo, Utah: Tantara Records, 2009)

In the 1995 film *Mr. Holland's Opus*, a musician and composer tries to write

one memorable piece of music to gain fame. He takes a job as a high school music teacher to pay the bills and over time discovers unexpected and even greater fulfillment during his thirty-year teaching career.

Such a story has parallels to that of Brigham Young University's Ron Simpson, producer of this CD, general manager of Tantara Records, coordinator of the Media Music Division of BYU's School of Music, and music director of the Young Ambassadors. Simpson left a career as a studio owner, producer, music publisher, and composer to take the lead of the fledgling BYU songwriting class in 1984. Since then, some fifteen hundred students have been through the program. *It Starts with a Song* may be similar to the crowning climax in *Mr. Holland's Opus*, when all of the main character's former students form an orchestra that premieres his long-awaited symphony—but it is less about the music and more about the tremendous number of lives he has touched and the love his students have for him as their teacher.

Simpson and his associates have taken not Simpson's own music but the music of his students and have assembled a two-disc CD of the best representatives of their work over the last twenty-five years. The songs were chosen on the basis of song quality, finish level, and how they fit in the overall continuity of the program. Many of the names will be recognized by local audiences: Hilary Weeks, Cherie Call, Rebecca Lopez, Mindy Gledhill, Jenny Jordan Frogley, Julie de Azevedo, Jericho Road, Tyler Castleton, Staci Peters, and Jeff Hinton.

Over the years, the media music program has become so popular that many are turned away, leaving a high-quality top tier of ability. One reason for the quality is that Simpson teaches song-

writing as a craft that can and should be learned. The names of students who have gone on to serious amateur or professional status are listed in blue in the liner notes—another evidence of the effectiveness of the program.

The material itself encompasses a wide variety of styles, quality, and genres. Though many of the songs would not stand up as hits on today's radio, they also cannot be judged as such. In some cases, the recording is an original version of a song later recorded and released commercially, with its original roots lying in the songwriting class itself. Others are recordings taken from unreleased albums. As a listening experience, one might expect a lot of devotional music. Simpson purposely avoided that obvious assumption, and a smorgasbord of music has emerged: acoustic folk, alternative rock, Bolivian, orchestral ballads, synth loop-based pop, guitar ballads, western folk-flavored songs à la the Eagles, and much more.

Perhaps the best approach for the listener is to consider this collection as a silver anniversary yearbook of sorts or perhaps an audio class reunion. Taken as a whole, it is a tremendous collection of talent representing even more works that were not chosen for the album. Its appeal is evidence of the contribution of a well-lived life and how much an individual can accomplish over a career.

Ron Simpson and his team deserve hearty congratulations for this outstanding collection of BYU's songwriting talent. We are lucky to have such talent preserved in such a convenient format. Future generations will be grateful that the project was undertaken.

—Greg Hansen