

Transcend 2005- August

The
SUTHERLAND
I N S T I T U T E
ADDING VALUE TO UTAH

***Transcend for
Latter-day Saints***

***Edifying Latter-day Saint Elected Officials,
Community Leaders, and Active Citizens***

Session Five, August 2005

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(Sutherland Note: *The theme of the August session of the 2005 Transcend Series was “Contours of the Rule of Law: Understanding Legal Frameworks.” Second among the Intellect sessions this year, the August session was designed to help elected officials and community leaders conceptualize the legal frameworks that combine to establish our rule of law in America.*

This session was kicked-off by Utah House Representative and Majority Whip Stephen Urquhart who addressed the subject of “Confirm Thy Soul in Self-Control, Thy Liberty in Law.” Attorney and Sutherland Scholar William C. Duncan led the morning seminar on the subject of “The Rule of Law: Lost and Found” and took participants through a historical overview and legal contrast of totalitarian and free nations. Then the afternoon workshop gave participants the opportunity to analyze a case study from the perspective of the four major legal theories represented on the U.S. Supreme Court today. The afternoon workshop was facilitated by Dan Witte, legal counsel for Beneficial Financial Group and a Sutherland Trustee.

For Latter-day Saints the rule of law has significant meaning. Not only does our history require a respect for and understanding of the limitations of the rule of law, but especially today as we reach out to govern our own local communities and try to extend our religious influence throughout the world. – Paul T. Mero, president, Sutherland Institute)

Governing in Babylon and Zion

There is a law irrevocably decreed in heaven before the foundations of this world, upon which all blessings are predicated – and when we obtain any blessing from God, it is by obedience to that law upon which it is predicated. (D&C 130: 20-21)

I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free. Nevertheless, when the wicked rule the people mourn. (D&C 98: 8-9)

For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which show the work of the law written in their hearts.... (Romans 2:14-15)

And Zion cannot be built up unless it is by the principles of the law of the celestial kingdom.... (D&C 105:5)

How would we contrast governing in Babylon and Zion? In gospel terms, the two cities are opposite and antithetical. Babylon represents worldliness, Zion godliness. We certainly have more experience with governing in Babylon. After all Zion has truly only existed twice, and come close only one other time. And none of these times even draws near to our modern experience.

Of course such a large subject cannot be handled in such a brief paper, nor is this author sufficiently equipped to understand the complexities surrounding the subject. Even so, there is sufficient curiosity (and relevancy to our public stewardships as Latter-day Saint elected officials and community leaders) to justify exploring the rules governing both societies.

What are the rules that govern Babylon? And what about Zion? And what does it mean for us in the here-and-now as we ponder the rule of law?

The contrast between the two societies might easily be summarized thusly: Babylon is all about the “transaction”; Zion is all about the heart. Mammon, or riches, is the socio-economic and political currency in Babylon. Everything about Babylon is about transactions – the worth of a soul is measured with the same currency as a loaf of bread – and because everything in Babylon centers upon transactions, intangible aspects of the human experience such as virtue, love, compassion, and kindness, to name just a few, are alien to its culture.

More importantly to the issue of governance, value in Babylon is measured solely by the ability to transact. For instance, the complete value of an orange is in its ability to be transacted. If an orange cannot be bought and sold in Babylon, then it must not have value. In Babylon an orange and a gun, or an orange and a car, or an orange and the human body, have one value; their “list prices” might differ, but their values are the same – their ability to be transacted.

Ownership is also important in Babylon. For if some thing is not owned, then it cannot be bought or sold. Babylon is not lawless; there are rules to play by and to enforce. One of those rules is that something must be owned to be bought or sold. Without this rule, chaos would reign and Babylon would lose its power.

Governing in Babylon, then, becomes very simple: allow the free and fair flow of commerce. The late scholar Hugh Nibley once wrote of Babylon,

She is rich, luxurious, immoral, full of fornications, merchants, riches, delicacies, sins, merchandise, gold, silver, precious stones, pearls, fine linens, purples, silks, scarlets, thyine wood, all manner of vessels, ivory, precious wood, brass, iron, marble, and so on. She is a giant delicatessen, full of wine, oil, flour, wheat; a perfume counter with cinnamon, odors, ointments, and frankincense; a market with beasts and sheep. It reads like a savings stamp catalog or a guide to a modern supermarket or department store. Horses and chariots and all manner of services are available; slaves in the souls of men.... And it is all for sale. "O virgin daughter of Babylon, ... thou hast labored ... [with] thy merchants, from thy youth (Isaiah 47:1, 15). (Hugh Nibley, *Approaching Zion*, pg. 15.)

This governing philosophy is quite convenient and attractive. It does not require the arduous and complex tasks of discernment or judgment. At most it requires vigilance in maintaining the free flow of commerce. A crime in Babylon is actually any constraint on any form of commerce. A criminal is one who proclaims that something cannot be bought or sold. In fact, the most odious citizen of Babylon is one who dares to impose any kind of moral qualification onto commerce. Babylon is a very linear and predictable world, primarily because it only occasions the human experience and in a very isolated and limited way.

But wait a minute. Babylon sounds awfully close to what we call the "free market" today. And the defenders of the free market sound very much like the bad guys in this description of Babylon. Is that what we are implying?

In answer to this question, we should first turn to a brief description of Babylon's opposite, Zion. As we have read time and again, "...for this is Zion – the pure in heart" and "...the Lord called his people Zion, because they were of one heart and mind, and dwelt in righteousness; and there was no poor among them." (D&C 97:21, Moses 7:18) This description hardly sounds like the harsh, rough and tumble world of Babylon. And, in fact, it is not. Zion truly is Babylon's opposite.

Perhaps the most relevant and accurate contrast between these two cities is stated in 2 Nephi 26:31: "...the laborer in Zion shall labor for Zion: for if they labor for money they shall perish."

Because of the obvious dilemmas involved here – for instance, if we are not to work for money, then how do we provide for ourselves? – there is always a constant push among LDS elected officials and community leaders to separate the two worlds. It is simply much easier to tell ourselves that Babylon and Zion are two completely different worlds and never the twain shall meet. Hence, we wrest “render therefore unto Caesar the things which are Caesar’s; and unto God the things that are God’s.” And so we live dual lives. On the one hand, we try to live Zion lives within our very personal relationships of family and religion. And, on the other hand, we give Babylon its due in every other realm. We live a private Zion and a public Babylon.

This duality, some might call it duplicity, is very real for us and, typically, very disturbing. For if the rules in Babylon do not permit intangible or spiritual value, or moral opinion and judgment, then how do we as Latter-day Saints afford ourselves the permission to be saints throughout our busy days? As LDS elected officials and community leaders, for instance, how can we possibly hope to share our morals and values in public policy without violating the rules of Babylon? Pornography is a transaction in Babylon. So is abortion. Homosexual marriage is simply a contract, another transaction. Who are we to stand in the way of such transactions in Babylon?

A better question is this: where is our peace as Latter-day Saints in public service in Babylon if we cannot publicly express our worldview, morality and values – the very qualities that make us Latter-day Saints? Is our sole value that we tend to be *honest* in our dealings? Is that it? Mere honesty?

Perhaps this is why Latter-day Saints can with good conscience sit on the board of the gambling commission in Las Vegas – because honesty is the sole measurement of a Latter-day Saint public servant. Likewise, LDS elected officials preside over ever-growing governments. And why not, if honesty is all we need consider in our public service?

The political philosophy of Babylon is libertarianism. The rule of law in libertarianism is simple: honesty and honesty’s cousin, a level playing field. There is nothing else, absolutely nothing else, in libertarianism that directs or proscribes its governing principles. As with Babylon, issues such as homosexuality, abortion, pornography, and harmful drugs are all commodities to be transacted. If the rules are even and transactions are honest, then such activities are permissible just the same as buying a loaf of bread.

As such, libertarianism is antithetical to Zion. And yet many Latter-day Saints identify their political philosophy with libertarianism. Its appeal is stimulating for many patriotic Latter-day Saints who value limited government. Its prophets of the free-market have been quoted by modern prophets in Zion. Both Babylon and Zion require unfettered independence and so many Latter-day Saints embrace libertarianism, or a form thereof, as their political philosophy. Of course, such fidelity is couched in safe parallels such as the value of private property and limited government.

The great danger to Latter-day Saints from Babylon and its intellectual defender, libertarianism, is that, for both, the Lord's plan of salvation is irrelevant. The plan of salvation is no transaction and Babylon has no need of any thinking that is irrelevant to the transaction, especially thinking that might actually impose proscriptions on the transaction. The plan of salvation informs Latter-day Saints that there are some things much more important in life than transactions. In fact, it says two important things to us. First, a good and purposeful life (and our happiness) has nothing to do with transactions and, second, Babylon in fact represents a proscription and constraint on the plan of salvation – quite the opposite of how we typically think of this contrasting relationship.

And yet, here we sit, as Latter-day Saint elected officials and community leaders, wondering how we structure and formalize our public service amidst the strength of Babylon in the gospel context of our Zion hearts. And wondering how we properly engage the rules of the game when we might not even understand whose rules or what game we are playing.

We do have one bit of advice that informs us here. It is found in D&C 98:10:

Wherefore, honest men and wise men should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise whatsoever is less than these cometh of evil.

Notice that honesty among our elected officials – the single LDS quality valued in Babylon – is only one of three qualities valued in Zion. Zion also requires that we be wise and good, but wisdom and goodness are irrelevant qualities in Babylon because they only serve to proscribe its transactions.

A political philosophy more in tune with Zion and its place in the lives of LDS public servants is conservatism. Conservatism focuses more on quality of life than it does the transactions of life. Conservatism requires reflection on life's purposes as well as its processes, on its ends as well as its means, on the thorough happiness of people and not simply on their physical pleasures. It also serves as a much more grounded protector of freedom because it values the crucial intermediate layer of society that lies in between the individual and the state, institutions such as family, neighborhood, religion, voluntary associations, and, yes, the marketplace. Take this intermediate layer of society away and the individual, who innately requires himself to belong to something, is dangerously exposed to the machinations and artificial values imposed by the state. It is no coincidence that totalitarians routinely move first to wipe out this intermediate layer before moving forward with their despotism.

A Zion people can safely live with conservatism. Its political rules allow Zion to flourish and to remain independent from the world. It permits the reasonable transactions of Babylon to continue relatively unfettered, but it does exact its proscriptions in defense of that intermediate layer of humanity

we call *civil society*.

The rule of law can be exercised in a variety of ways. Babylon's ways are enticing and tempting. It proclaims, "live and let live," just be fair and honest in your dealings with your fellow man. The rule of law in Zion is quite different, both in substance and process. Its rule of law weighs carefully and heavily the human experience within the context of eternity. In day to day political decision-making these differences are monumental. May we be honest, wise, and good enough to see these differences. – PTM

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