

HONOR OUR MISSION OR REFUND OUR TUITION?

by Tim Voorhees

SMU law students spend tens of thousands of dollars to attend this college of law rather than a cheaper state school. In exchange for our tuition, we receive instruction from outstanding professors. Most teachers have a sincere and profound commitment to helping students compete in the legal market. In addition, the administration operates this school with great efficiency and maintains a remarkable personal touch.

We must ask, however, whether our university is distinguished by its commitment to upholding our Methodist heritage. Students pay extra for a Christian education. Unfortunately, many people wonder how the religious training at SMU differs from the "values-neutral" instruction offered at secular law schools.

WHAT IS THE MISSION OF THE SMU SCHOOL OF LAW?

According to official documents sent to each law student, "[t]he university must maintain the traditional values of academic freedom and open inquiry as well as its United Methodist heritage."¹ Methodist values equate to Biblical values.² "Academic freedom and open inquiry" must be subordinate to Scriptural values if conflicts develop.³ Ideals in our mission apply to all of us as "members of the university" who must "uphold [SMU's] integrity."⁴

Many campus landmarks support SMU's Bible-based mission statement. The cornerstone of a principal building boldly proclaims "Christ Jesus himself is the chief cornerstone" (Ephesians 2:20); the SMU seal declares that "The Truth will set you free" (John 8:32)⁵; and a stone carving depicts the Ten Commandments (Exodus 20 and Deuteronomy 5). One can also find prominent references to John Wesley, the founder of Methodism and the "man of one Book." For example, large brass letters in Florence Hall quote Wesley in exhorting, "[l]et us unite the two so long divided: knowledge and vital piety."

HOW DO BIBLICAL VALUES APPLY IN LEGAL EDUCATION?

Our Methodist heritage includes a strong commitment to the jurisprudence of John Wesley and the Christian legal scholars who influenced his thinking. In his sermons and writings, Wesley stressed the need for a Scriptural understanding of law.⁶ Although not a legal scholar himself, Wesley drew on the theories of Saint Thomas Aquinas, Grotius (a prominent Dutch theologian and lawyer), John Locke, and other experts on "Higher Law."⁷

Wesley's ministry emphasized New Testament love, but he also recognized the importance of order, justice, and other Biblical themes pertaining to social relationships. Wesley obviously shared Christ's disdain for all types of litigation. Like John Locke, Wesley thought that Christian jurisprudence should promote property rights, federalism, and separation of powers. The doctrinal principles of modern Methodism, first published in 1808, still affirm these cornerstones of Christian legal thinking.⁸

Wesley had a passion for open inquiry in pursuit of broad knowledge.⁹ Nonetheless, he believed that views contrary to Christianity must be addressed from a Biblical perspective.¹⁰ Abundant references to New and Old Testament verses in Wesleyan sermons strongly support the exhortation that we, "test all things [against Scriptural standards and] hold onto the good" (1

Thessalonians 5:21).¹¹ Christian professors should consider this command because persons "who teach will be judged more strictly" (James 3:1).

Shortly after SMU's founding, the school's president defined our mission from a Scriptural perspective. "[T]o bring in the kingdom of our Lord and Savior Jesus Christ and to organize society according to the will of God, to stand for the great fundamental doctrines of Church and state, the [C]onstitution of the United States, the institution of the family, marriage, parenthood, property, religion, law and morality . . . these [ideals] we interpret to be the guarantee of our mission and a sufficient explanation of our existence and growth . . . We do not interpret academic freedom to mean that we shall be hospitable to those opinions that strike at the very foundation of religious orthodoxy . . ."¹²

HOW DOES SMU LEGAL EDUCATION FAIL TO UPHOLD BIBLICAL VALUES?

SMU develops anti-Biblical perspectives in many ways. Despite our Bible-based mission statement, Roger Cramton could have been referring to SMU when he wrote, "[i]t is from the ordinary religion of legal education that our students are exposed to moral relativism, pragmatism, amoral institutionalism, cynicism, individualism, and an unfounded faith in reason."¹³

The emphasis on popular secular worldviews causes us to neglect history. Law students typically receive limited training about the religious aspects of America's legal heritage. Nonetheless, even as we disregard the past, scholars continue to document important facts about America's Christian foundation. The Declaration of Independence incorporated Scriptural principles.¹⁴ Authors of state constitutions also emphasized Biblical values.¹⁵ Procedures in the U.S. Constitution were created to uphold Christian philosophies in organic documents predating the Constitution.¹⁶ The U.S. Supreme Court acknowledged our Christian roots in hundreds of decisions.¹⁷ Until the first part of this century, American legal education centered around the *Commentaries* by Blackstone, who sought to base all legal reasoning on the Bible.¹⁸

Without an understanding of history, students remain ignorant about the practical application of Biblical principles in law.

They have no clear standard by which to judge the law school curriculum. As a result, much instruction based on the current positive law goes unchallenged. When classroom discussions turn to normative matters, rarely if ever do students receive guidance in discerning which proposed policies most effectively fulfill Christian ideals. Virtually never do professors refer to the 100+ well-known books on Bible-based law. Nor do students receive much encouragement in upholding the Biblical mandate that we "demolish arguments and every pretension that sets itself up against the knowledge of God, and . . . take captive every thought to make it obedient to Christ" (2 Corinthians 10:5).

By claiming faithfulness to the Methodist heritage, we create misleading perceptions. Members of the public, especially after seeing church publications which promote SMU, may consider our students less likely to disregard Wesleyan principles.¹⁹ This is wrong! Even those of us who acknowledge our foundational beliefs probably fail far too often in attempts to uphold them. We feel tremendous and unrelenting pressure to compromise our morals by taking positions which reflect current norms in the legal profession. When conforming, many of us may ignore how law has made "titanic shifts" away from its Christian roots.²⁰ We make only weak objections to these changes;

therefore, "the law is becoming more fragmented, more subjective, geared more to expediency and less to morality, concerned more with immediate consequences and less with consistency or continuity."²¹ At SMU, as elsewhere in America, "the historical soil of the Western legal tradition is being washed away in the twentieth century."²²

Promoting SMU as a Methodist institution, while actually teaching students to conform to the existing legal culture, may violate the third commandment. According to Exodus 20, "[y]ou shall not misuse the name of the Lord your God." "The 'name' of God stands for so much more than the mere pronouncing of his title of address. It includes. . .[his] doctrine (Psalms 22:22; John 17:6, 26), and. . . his moral and ethical teaching (Micah 4:5)."²³ Certainly we violate the spirit of Wesleyan sermons by taking a lukewarm approach to faith.²⁴

WHAT ARE THE CONSEQUENCES OF FAILING TO UPHOLD BIBLICAL VALUES?

We may provide "justice" primarily to those who can most afford it. As the legal system becomes more unprincipled and complicated, the poor find it increasingly difficult to understand and apply the law. In fact, *The Legal Reformer* reports, "86% of respondents say that it is 'very difficult' for the average consumer to get sound, reasonably-priced legal advice on everyday matters."²⁵

We emphasize litigation rather than Christian alternative dispute resolution. "By the 1970's the climate in the law schools had turned around on the subject of litigation, first to ostensible neutrality and then to admiring support."²⁶ The adversarial system thrives as growing numbers of students participate in moot court and trial advocacy programs. In his recent book, *The Litigation Explosion*, Walter Olson writes, "[it's hard] for ADR to compete with today's litigation promotion machine."²⁷ Unfortunately, the proliferation of lawsuits may produce few benefits. "[R]espected observers, such as Professor Jeffrey O'Connell of the University of Virginia, believe that when all costs are counted only around 15% of the cost of injury litigation goes to compensate claimants."²⁸

We support unprincipled legal doctrines despite their negative effects. By failing to affirm moral absolutes, we foster insidious relativism. One economist writes, "[y]ou cannot have a law abiding society unless people know - in advance - what the law means. Not only individuals but institutions cannot be decisive when 'evolving standards' turn judges into roving second-guessers with power, rather than enforcers of known laws . . . Businesses, foundations, and public agencies [live] in the shadow of murky 'evolving standards' of law, which ultimately means that even the most clearly spelled-out law or contract does not protect you from some judge's crotchets."²⁹ Uncertainty may have a large price. "University of Texas finance professor Steve Magee in his soon-to-be-released book, *Lawyers vs. the U.S. Economy*, reports that every new lawyer in the United States knocks \$1 million off the GNP annually for the rest of his or her career."³⁰

We contribute to America's decline by compromising proven religious principles. Will and Ariel Durant, in *The Story of Civilization*, conclude, "[t]here is not a significant example in history, before our time, of a society successfully maintaining a moral life without the aid of religion."³¹

WHAT REMEDIAL MEASURES SHOULD SMU TAKE?

As our legal system drifts from its Biblical roots, each student should question whether SMU teaches conformity to current norms in the legal profession. "See to it that no one takes you captive through hollow and deceptive philosophy, which depends on human tradition and the basic principles of this world rather than on Christ" (Colossians 2:8). "Do not conform any longer to the pattern of this world, but be transformed by the renewing of your mind" (Romans 12:2).

Until SMU can better equip lawyers to stand firm on Biblical values in the midst of jurisprudential amorality, perhaps we should curtail promotion of this school. What might we learn from Christ's strong warnings directed at teachers of the law who falsely claimed to offer legal instruction based on religion? (See, e.g., Matthew 23:15)³²

Christian law students urge that SMU develop and promote a curriculum on Biblical law similar to that offered by other law schools with mission statements affirming Scriptural values. Most of the problems detailed in this essay could be addressed by basing three courses on Biblical principles: **1) Christian Professional Responsibility, 2) Christian Arbitration and Reconciliation, and 3) Christian Constitutional Law.**

In addition to teaching courses dedicated to instruction on Biblical law, professors should in every class promote discussions about Scriptural positions on normative law. Although students must feel free to express any view, we should respond when classroom statements conflict with a Scriptural understanding of Higher Law.

We must consider ways to promote Christian activities outside of the classroom. Let's complement SMU's three secular law reviews with one that emphasizes Biblical jurisprudence. We could also develop a Christian ADR competition as an alternative to the various moot court and mock trial contests.

School management should change as well. We must once again base decisions on our doctrinal statements. Let's learn from researchers who document how Christian organizations achieve greater growth rates!³³ Authorities on principled leadership may also have valuable insights for us. These experts maintain that institutions benefit from maximum flexibility and effectiveness in responding to evolving needs if managers actively promote adherence to fundamental beliefs.³⁴

Those of us who chose SMU because of its mission statement hope that this university will make immediate changes.³⁵ We must openly affirm SMU's bold commitment to maintaining our Methodist heritage! We must not waste a great opportunity to unite people in restoring jurisprudence based on God's principles! Nonetheless, if commitment to our mission does not clearly differentiate SMU from state schools, we probably cannot justify tuition levels so much higher than those at state schools. When upholding either Biblical or common secular definitions of integrity, all of us should ask whether SMU owes refunds to students who selected this school because of its Methodist mission.

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ENDNOTES

1. SCHOOL OF LAW BULLETIN 25 (1991).

The mission begins with the declaration that, "[t]he mission of Southern Methodist University is to fulfill its promise as a private university of the highest quality." Following the opening statement is the sentence quoted in the text of this essay ("The university must maintain the traditional values of academic freedom and open inquiry as well as its United Methodist heritage.").

In a section of the SCHOOL OF LAW BULLETIN which follows the statement of mission (see page 26), the authors have commented that, "[t]he founder's first charge to SMU was not that it become a great *Methodist* university but a great *university*." [emphasis in original] SMU can fulfill this charge without compromising its Methodist heritage. SMU must fulfill this obligation without compromising Biblical values (see footnotes 2 and 3).
2. THE BOOK OF DISCIPLINE OF THE UNITED METHODIST CHURCH 64-78 (Nashville: The United Methodist Publishing House, 1992). According to page 78, "the Bible serves both as a source of our faith and as the basic criterion by which the truth and fidelity of any interpretation of faith is measured."
3. Many books and articles discuss the Biblical definition of academic freedom and open inquiry. A list of such materials is available upon request.

Also subordinate to our mission is a phrase in the law school bulletin which notes that SMU is non-sectarian in its teaching. We can understand how this phrase comports with the mission statement by examining a definition of "sectarian." The American Heritage Dictionary gives the following interpretation: "1. Of, pertaining to, or characteristic of a sect. 2. Adhering or confined to the dogmatic limits of a sect; partisan. 3. Narrow-minded, parochial." (American Heritage Dictionary, 1982, page 1108)

Given our commitment to academic freedom, Bible-based education at SMU obviously should not teach only "sectarian" Methodist views. In upholding our mission statement, we can give consideration to other non-Methodist doctrines. Nonetheless, alternative Christian teachings must not conflict with Scripture. Both footnote 2 and prior law school bulletins support this axiom. For example, according to the 1959-60 bulletin, "Southern Methodist University was founded through the effort and by the authority of a Christian church whose religious principles and moral ideals should always be respected by all who manage its affairs. . . The purpose of Southern Methodist University is to develop in the individual student a high type of Christian character. . . and no teaching is tolerated which is in conflict with Christian principles." (Page 11)

Certainly, our openness to non-sectarian views does not justify our being a secular university!
4. THE PERUNA EXPRESS 75,76 (1991)
5. This phrase appears in latin as "VERITAS LIBERABIT VOS."
6. See, e.g., *The Original, Nature, Property, and Use of the Law*, JOHN WESLEY, SERMONS ON SEVERAL OCCASIONS 381 (London: Epworth, 1980)
7. THEODORE RUNYON, WESLEYAN THEOLOGY TODAY: A BICENTENNIAL THEOLOGICAL COLLECTION 90, 121, 296, 297, 310, 366, 384, 374, 407, 409, and 411. (Nashville: Kingswood Books, 1985)
8. THE BOOK OF DISCIPLINE OF THE UNITED METHODIST CHURCH 64-70 (Nashville: The United Methodist Publishing House, 1992).

Article 23 addresses the divisions of power and states rights. Because Wesley and Locke reasoned from very similar epistemological perspectives, one can argue that Wesley's views expressed in Article 23 are consistent with Locke's extensive writings on Biblical government. Of course, other Bible scholars have also provided a variety of arguments which explain how doctrines concerning divisions of power and states rights (federalism) comport with Scripture.

Article 24 affirms property rights. A variety of Biblical arguments support respect for the property rights of individuals. For example, Locke claimed that property rights derived from the Commandments that "thou shalt not covet" and "thou shalt not steal."
9. C.E. VULLIAMY, JOHN WESLEY 34 (Westwood, NJ: Barbour and Company, Inc., 1985).
10. C.E. VULLIAMY. JOHN WESLEY 23 (Westwood, NJ: Barbour and Company, Inc., 1985).
11. CHARLES W. CARTER, general editor, THE WESLEYAN BIBLE COMMENTARY, volume 5. 542. (Peabody, MASS: Hendrickson, 1979). "By what criterion shall the Christian judge things to be right or wrong? Our Lord rebuked the religious leaders of His time by saying: 'Ye do err, *not knowing the scriptures*, nor the power of God' (Matt. 22:29). The Apostle, on the other hand, commended the Berean believers because they examined *the scriptures* daily, where these things were so' (Acts 17:11). The prophet Isaiah in his day challenged Israel to run 'to the law and to the testimony! if they speak not *according to this word*, surely there is no morning for them' (Isa. 8:20)."
12. *President Seleckman's Formal Opening Address at Southern Methodist University*, TEXAS CHRISTIAN ADVOCATE, September 7, 1923, at 8.

The text of the address quoted in TEXAS CHRISTIAN ADVOCATE apparently contains typographical errors. Both to correct errors and shorten the president's comments, the language originally reported has been changed in this essay.

Page 8 of the TEXAS CHRISTIAN ADVOCATE records the following words: "To erect and maintain high Christian ideals, to create an atmosphere that will be conducive to growth in grace and in the knowledge of our Lord and Savior Jesus Christ, to help develop a ministry and laity that is in harmony with the doctrines and spirit of the Methodist Church, and to endeavor by cooperation with other bodies of Christians to bring in the kingdom of our Lord and Savior Jesus Christ and to organize society according to the will of God, to stand for the great fundamental doctrines of Church and state, the constitution of the United States, the institution of the family, marriage, parenthood, property, religion, law and morality, these we interpret to be the guarantee of our mission and a sufficient explanation of our existence and growth."

The same story continues later with these words: "We do not interpret academic freedom to mean that we shall be hospitable to those opinions that strike at the very foundation of religious orthodoxy, constitutional liberty or social welfare." References to "constitutional liberty" and "social welfare" have been omitted because the speaker's understanding of these concepts probably differed significantly from modern interpretations.

13. Roger C. Cramton, "The Ordinary Religion of the Law School Classroom, 29 J. LEGAL EDUC. 247, 248.
14. GARY AMOS, DEFENDING THE DECLARATION: HOW THE BIBLE AND CHRISTIANITY INFLUENCED THE WRITING OF THE DECLARATION OF INDEPENDENCE 37 (Brentwood, TN: Wolgemuth & Hyatt, 1989).
15. DAVID NOEBEL, UNDERSTANDING THE TIMES 622 (Manitou Springs: Summit Press, 1991).
16. DAVID NOEBEL, UNDERSTANDING THE TIMES 558 (Manitou Springs: Summit Press, 1991). Quoting Harry S Truman.
17. DAVID BARTON, THE MYTH OF SEPARATION: WHAT IS THE CORRECT RELATIONSHIP BETWEEN CHURCH AND STATE? 82 (Aledo, TX: Wallbuilders Press, 1992)
18. CAL THOMAS, UNCOMMON SENSE: A LAYMAN'S BRIEFING BOOK ON THE ISSUES 74 (Brentwood, TN: Wolgemuth & Hyatt, 1990). Thomas quotes Blackstone as follows: "The doctrines thus delivered we call the revealed or divine law, and they are to be found only in the holy scriptures. Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these."
19. See the last endnote for an example of how Methodist publications continue to promote SMU as a Christian school.
20. FRANCIS SCHAEFFER, A CHRISTIAN MANIFESTO 47 (1982)
21. HAROLD BERMAN (Professor of Law, Emory), LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION vol. 2, 39.
22. HAROLD BERMAN (Professor of Law, Emory), LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION vol. 2, 39.
23. FRANK GAEBELEIN, editor, THE EXPOSITOR'S BIBLE COMMENTARY, Volume 2. (Grand Rapids: Zondervan Publishing House, 1990)
24. JOHN WESLEY, SERMONS ON SEVERAL OCCASSIONS 15 (London: Epworth, 1980)
25. THE LEGAL REFORMER, January-March 1993. 5 (HALT, 1319 F street, NW, Suite 300, Washington DC 20004)
26. WALTER K. OLSON, THE LITIGATION EXPLOSION: WHAT HAPPENED WHEN AMERICA UNLEASHED THE LAWSUIT 4 (New York: Truman Talley Books, 1991).
27. WALTER K. OLSON, THE LITIGATION EXPLOSION: WHAT HAPPENED WHEN AMERICA UNLEASHED THE LAWSUIT 304 (New York: Truman Talley Books, 1991).
28. WALTER K. OLSON, THE LITIGATION EXPLOSION: WHAT HAPPENED WHEN AMERICA UNLEASHED THE LAWSUIT 10 (New York: Truman Talley Books, 1991).
29. Thomas Sowell, *Accomplices: Judges Have Created Many of the Troubled Waters in which Lawyers Fish* FORBES (March 30, 1992)
30. TEXAS LAWYER 47 (April 6, 1992)
31. BENJAMIN HART, FAITH AND FREEDOM: THE CHRISTIAN ROOTS OF AMERICAN LIBERTY 364 (Dallas: Lewis and Stanley Publishers, 1988).
32. Lets not judge our concerned and talented SMU professors as being like the teachers of the law which Christ treated so harshly. Nonetheless, perhaps all God-fearing members of this university should learn lessons from Christ's comments about legal reasoning.
33. See, e.g., ABSTRACTS OF THE WALL STREET JOURNAL, December 8, 1989, Friday, Section 2; Page 1, Column 3. "Research conducted by management scholar Nabil A. Ibrahim finds that a group of 152 Christian-based companies grew significantly faster than other companies in their fields by every criterion examined: return on assets, net sales, number of employees, and value of net assets."
34. See, e.g., THOMAS WATSON, A BUSINESS AND ITS BELIEFS, 4-6 (New York: McGraw Hill); JAMES M. KOUZES AND BARRY Z. POSNER, THE LEADERSHIP CHALLENGE: HOW TO GET EXTRAORDINARY THINGS DONE IN ORGANIZATIONS. 12 (1990)
35. Students who grew up in the Methodist church have good reasons for expecting SMU to honor its mission. We may have seen hundreds of references to SMU as a Christian school. A recent example: The January 29, 1993 issue of the Methodist TOWER includes a picture of Dallas Hall above large letters reading, "Faithful . . . and standing firm." Under these bold words is a quotation from Psalms 89:1-2. ". . . I will make your faithfulness known through all generations. I will declare that your love stands firm forever, that you established your faithfulness in heaven itself."