

**The Mormon Legal Mind**  
Sunstone Discussion with Denver Snuffer  
1 August 2015

**Brad Cramer:** It's a couple of minutes early but I guess it can't hurt to get going on this, especially since I have to give introductions. Thank you to Sunstone. Conference is coming to an end but I want to – I'm sure she's not here, but I want to especially acknowledge the work that Lindsey has done. This has been a really phenomenal conference and she deserves tons of credit [audience applause]. I can't say enough about how impressed I am. I'm very honored to be a part of the panel even though I'm not presenting. I think we've got the potential to have some really good conversation, really good issues, and just to moderate and to be with this group of people. Thanks for asking me, David. David did the lion's share of work on putting the panel together. My name is Brad Cramer. I am actually a colleague of Daymon's more than anything else, but David and I grew up together.

I'm just going to jump to introducing each of the panelists. We're going to hear from them in the order that I'll introduce them. We're going to be having a conversation about... The title is *The Mormon Legal Mind*. We're going to be talking about issues, in particular in legal entity, legal organization, what does it mean for a church to be a corporation or a series of corporations, or other kinds of legal entities, how does the particular relationship or configuration that these entities have with each other, what implications does that have for how the church operates, for deeper moral or ethical questions. I think it's a very potentially fruitful topic and we have very gifted scholars, very outstanding experts, both theoretical and practical experts. This is going to be a great conversation.

We begin with David Read, who as I mentioned, convened the panel. David and I were in Young Men's together growing up in a ward in east Millcreek here in Salt Lake. David then went on, I don't remember where you did your undergrad but he did his Master's degree in Political Theory at the London School of Economics and then came back stateside and did a Law degree at University of Houston. David now teaches Business Ethics and Law at Weber State and he's been doing a lot of really important research that we should all put lots of pressure on him to publish soon because it's really good stuff, in particular, on these questions. We'll begin with David.

After we hear from David we will have Daymon Michel Smith. Daymon and I have been friends for about a decade. We're both anthropologists. Daymon studied at Penn and I studied at Michigan. Daymon is smarter than I am and studied with the preeminent scholar in his field. Among other things, Daymon is the author of a tremendous dissertation on the history of correlation in Mormonism. He's also the author of *The Book of Mammon* and a series of books called *The Cultural History of the Book of Mormon*. He's a prolific blogger and a provocative blogger, and a very good friend of mine. We'll hear from Daymon after David.

Then we're going to hear from Denver Snuffer. Denver is a practicing attorney in Salt Lake and a very prolific writer, also not without some controversy. He has had quite a bit to say

on this subject over the years and I think that he has played a really important role in stirring conversations about these kinds of questions over the years. I think we're all excited to hear what Denver has to say.

Bryndis Robertson is also a practicing attorney from the Atlanta area. Of note, her law partner is her ex-husband, who is also a very good friend, her best friend. Bryndis' practice is contract and corporate law. In addition to being an incredibly smart and researched scholar on these kinds of issues, also has a wealth of practical experience. Some of her clients are churches or religious organizations, religious—what would you call them—religious associations. She's seen, in a very hands on way, what it means for a particular religion to have a particular kind of corporate structure as compared to another religion, what some of the practical or even ethical implications of that might be, so I think we will all benefit tremendously from hearing about her experience and hearing her think critically about these kinds of questions.

We will hear from each of the four panelists and then, assuming we have time, I'd imagine there'll be any number of audience questions and hopefully we can have a really good discussion. For now I'm just going to turn it over to David. [audience applause].

**David Read:** Thanks, Brad. I'm just going to dig into this, just a quick little background. Been doing research on the corporate entities of the Church of Jesus Christ of Latter-day Saints and fortunately the state of Utah, because I work for a state entity, has given me an exemption to do the research and the total number of documents, it was a small binder here, is about eight of them now filled with legal documents that have now been pulled. It would have cost probably around \$10,000-\$15,000 to do that, an enormous amount of corporate activity all driven by Church attorneys and so forth.

What I will do is just give a little background of the development of the Church structure corporation. I'm going to gloss over pretty quickly. The way it works is that you have Joseph Smith—some work has been done with Joseph Smith and his legal papers—Jack Welch down at BYU and a few others. Then what we have is what's known as the Trustee-in-trust, and that is typically the president of the Church but not always. Before that, before the Trustee-in-trust, it's the bishop of the Church, Newel K. Whitney, so forth earlier, that manages property, real property, personal property, assets of the Church. At times it's not Joseph Smith, it's not Brigham Young, but briefly, when people are appointed as Trustee-in-trust, it's largely after Joseph/Brigham Young, anyone that is appointed as Trustee-in-trust is usually a presiding bishop or they're typically the assistant Trustee-in-trust. They hold and manage the real property and personal property of the Church. 1875 George A. Smith dies, it reverts back to Brigham Young. After Brigham Young it continues on to John Taylor.

The purpose of the Trustee-in-trust initially is to hold title to property and distinguish it between the financial affairs of the Church and Joseph Smith, and then it is to distinguish it between the financial affairs of the Church and Brigham Young. Of course, the government under Brigham Young, they're going after the Church, various legislative acts by Congress

are passed, 1863 the Anti-Bigamy Act, 1882 the Edmunds Act, 1887 Edmunds-Tucker Act. But Joseph Smith, in 1841, the first time is put in as the sole trustee for said Church, that's what the document says. But it's not always the president. Church presidents have been sustained as the Trustee-in-trust up until President Kimball, and then that was discontinued.

Just recently I learned why that was discontinued and it set forth in legal memoranda in the H. Michael Marquardt papers here at the University of Utah, and there is a memorandum prepared. It's from Robert Dyer to Francis Gibbons of the First Presidency in 1980. In this document the Church lawyer argues that there's no need to sustain the president as Trustee-in-trust and so it's discontinued. What we see is the language, the purpose of the Trustee-in-trust, we get it from the Illinois Act, "Receive, acquire, manage, or convey property, real, personal, or mixed, for the sole use and benefit of said church." And then the office of Trustee-in-trust is superseded by the creation of the Corporation Sole.

Another legal memorandum explaining to the First Presidency and the Quorum of the Twelve apostles exactly how this works. They're not quite sure how this works in 1980 and then Wilford Curtin, who is general counsel, outside counsel of the Church, writes and prepares a brief to James Faust, May 21, 1980. At that point we have the Trustee-in-trust, and then we move onto what's known as this legal fiction called the Corporation Sole. In Utah the legislature enacts this in 1901. Franklin S. Richards, legal counsel for the Church beginning in 1880, pushes hard for the Corporation Sole and the reason is that before 1901 corporations have to have a board of directors. It's going to be jointly managed, it's going to be a collaborative effort, and then in 1901 we have a Corporation Sole here in Utah and in a number of other states that allows one person only to hold and manage all property, real and personal. But it's not until 1931, interestingly enough, that they transfer the rest of the property to the Corporation Sole. In 1916 we have the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints. Since then, as you can imagine, a number of corporate documents being filed with the state of Utah describing how the Corporation is to be governed.

A couple of things that are interesting, and there's a number of things that are interesting, but for the sake of time I'm just going to give you a couple of them. Article Three of the Articles of Incorporation state this, "The estimated value of property which I hold the legal title for the purpose aforesaid at the time of making these Articles of Incorporation: \$16,000." I don't know what that means. Is that \$16,000 that was just put into the Corporation Sole? It must be, because there were hundreds of thousands, and millions of dollars of value at the time. Interestingly enough, one year later, here's this, this is important. 1931 report, legal memorandum to the Church authorities. Here it states this and Franklin Richards says that "Fred Bush had been in charge of the ward and stake corporations which now, in 1931, number between 700 and 800, and are constantly increasing." What they had done is they incorporated for each ward and stake so as to shield each other from liability. But in 1931 alone, 700 and 800 different corporations. And of course, the number of \$16,000 seems to be misrepresented in the case of the late corporation in 1890 where the Church did uphold the Edmunds-Tucker Act. Estimated

Church property would be at least 3 million dollars, 2 million in real property and a million in personal. I put up here that the government, Utah attorney, had seized only \$381,000 of the total amount.

Another article, and this is important, it's important to the development of these corporations under the intent of what the Church is trying to do. "The object of this corporation shall be to acquire, hold, and dispose of such real and personal property as may be conveyed to said corporation for the benefit of the members of the Church." That's it, very similar to the language of the Trustee-in-trust. We have an amendment one year later and it adds this language, and I will abbreviate this underlined, "And this corporation shall have power without any authority or authorization from the members of said Church or religious society." I'm not sure quite yet, I assume there's some lawsuits at this point, I've not found them. I assume that's what's happening and they're changing their charter.

The Corporation Sole of the President of the Church, so you have the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, and the Corporation of the President. Here again Franklin S. Richards states, "The primary purpose of this is to create a corporation wherein they are able to have perpetual succession so that little title would not be affected by death, resignation, or disqualifications of any person holding title." They want to have clear succession.

Today, at least in Utah alone, what I see is there's about 103 legal entities that I can find governed by the Church. I found all of these through the search online which is restricted and it has a stiff fee to do this. A few weeks ago, a month ago, doing research at home, I didn't have my documents. I went online to find a few documents and I can find them through outside counsel Vaughn Keach's name because he was the agent of service and you can find that, but he was just made a general authority in the last conference and they've changed the agent of service to a corporation to receive service, and so it's almost impossible to find these documents now. 103 legal entities at least at this point, but I think this summarizes it, and I'll finish with this.

This is in 1921, Franklin S. Richards. He says this, "The Church has always been much broader than that ordinarily conducted by religious organizations in that it has owned, bought, sold, and exchanged large quantities of real and personal property, and has engaged in business concerns which are unusual in conducting the affairs of religious bodies." Nothing has changed. It's at a level unprecedented compared to any other church, not only in this country but around the globe. That's what I got, thank you.

**Daymon Mickel Smith:** Thank you, David. This question of the legal status of the Church has been something that I was interested in for a while but I didn't have any training to do it whatsoever so it's good to have finally somebody who actually knows what any of this stuff means, sort of on the job at this point. Thank you, David.

My experience with the law is pretty minimal so I'm just going to draw from what I know. A lot of that is, of course, satire and using dirty words and things, so that's probably what mostly you'll find in this talk.

In the Beginning, we might as well re-translate the old stories into consumables delivering best practice solutions, In the Beginning The Chief Exalted Managing Executive of Executive Management said in an inter-department memo, Let there be the word Light, and let me trademark it. Let me brand all that is, and was already before the Beginning, with this word that I own. Now it is Good for something.

On the second day the Chief Executive, from his time-share in Voidland, where he was attending a conference titled, "buying and selling souls: the investment basics," did text unto his Vice President of Growing Growth, and he commandeth, "Let no thing that is not sealed by my brand circulate in my market," and the Vice President reporteth, "No thing that is not of our brand is now circulating in our market."

And it came to pass they did meeteth for brunch, and boasteth, and did lispeth in this manner, "We Brethren, the Impostles, Be-ers, and Drivelators, are now masters of Growing Markets, and owneth all that iseth of the True Light." And to some they gave more, and to others less of this trademark, promising that should they do as commanded, they would receive more sealant, in payment. And they called that sealant Good for something. And they who doeth all that is commanded, they promised to give unto them a quarterly evaluation in the range of "exceedeth expectations."

And so on, until their market was grown, did they demand of others to do something good for something, and yet out of nothing. But because that growing is of a proprietary nature, being patented, copyrighted, mystify-patent-righted-copy-gurgle-blah-blah-nada-fied, and also servicemarked, and that moreover the Gods have all signed Non-Competes, and the Prophets did signeth Non-Disclosures and thus their mouths are stopped up, even as the ass with a donkey up it, the secret of the marketization of the Light, and to the buying and selling of souls, remaineth, as Proverbs says, for kings only, and surely not queens, to revealeth. But all might profit thereby.

Yet Kolobians understand that the Light was before the trademark, and that false gods ever claim to owneth and to give the thing, when they give only the word for the thing; and give not the thing itself, for they do not hold, never possess, nor own it in any manner. Priesthood they would call a power, when it is in truth only a word for a collection of priests. For they have no power other than the collection and the words muttered by these collectives to their collective deception, fools imagining a vain thing.

How do we move things? That seems like a question we can reduce the recondite matter of the Mormon Mind down into. How do we move things with our words?

One of many overlooked details of Greek mythology concerns the absence of simple machines being put into use by the Gods. In our own day, can you imagine Superman or

comic book Thor relying on a lever to lift a car from its side, and thus to save the day? The Gods don't use levers. An airborne, be-cap-ed being lifting the yellow bus across some collapsing bridge to Babylon? Not by working against gravity, he doesn't. Whatever leverage these beings bring about, it comes from them: from their being, from being what they are; from are-ing what they be, and so on. It is beyond our words to point at it, apparently. And what sort of world does that look like, a world without leverage? How do we move things without levers? Both things lacking levers, like machines, and things moved, yet without any lever? These are questions answered by what the word Zion means, I suppose.

Now, let me loosen up a little bit and be somewhat less formalified. When I first proposed, now half a decade back, that there was no LDS Church, I was confronted with mockery and scorn, and confusion. The confusion may still exist, but even the blogosphere high priests of Mormonism and givers of its incoherent laws, who initially scoffed and pointed their lips at the claim, and shook their heads, have since unfleeced their eyes to the existence of the corporation sole. How else could God have organized his kingdom, in order and wisdom, they now half-heartedly half-inquire, but as a corporation sole? What wisdom, what vision have our prophets and seers, to build a kingdom around profits and speculation! How else to leverage scripture into a global church? How else, move things around by using words? What faithless, fleeting vaulting to another self fleecing; what law flouting; what vaunted flaunting; what do you mean, Daymon, why can't you just say what you mean? Okay, I'll say what I mean. Horse shit. Got it? We have it in spades, I suppose, so let's get out our spades and shoveling.

How else could we Mormons build the kingdom of God, if not with corporations designed to shake Invisible Hands, and to stroke ourselves thereby; how else but to give to it secret signs and cheap tokens, and to gain fleeting reward thereby? In the Beginning, some would have the ancient stories begin yet again, God started a corporation, and said, let there be markets for light, and there were markets, and they made existence profitable, but light became scarce. And in the beginning, you would have it said, was the Word, and that word was "For Sale," and God was For Sale.

How else to move things, without the leverage of markets and law, the leverage of leverage, or the power of the power of the priesthood power? What I'm certain of, is that "Mormon" is a word. A word someone uses to say something about a person, or an attribute of a person or a thing. It is scalable, so that one might speak of Mormon culture, a Mormon, The Mormon Mind, a Mormon mind, a Mormon thought, Mormon thought; some Mormon-ism; a Mormon whatever. Thus, we have a basic outline of the Sunstone range of presentations year after year, the ground on which we might endlessly complain, praise, queer, quarrel and bitch at an invisible, non-existing church / people / culture / whatever.

What do we Hear? Glad tidings? Listen to me shoveling. I hear People using a word in various ways, and wondering if their usage will become widespread enough that they might become briefly Leviathan, if only in some very small pond. What does it mean, when used as a noun of various classes, as a modifier, and even as a verb, say, for instance, "I got totally

Mormoned last night!” That word—like the phrase, Church of Jesus Christ of Latter-day Saints—is trademarked, by the way.

What Mormon says or points to or picks out is entirely a matter of convention, meaning, were I to discourse on the Mormon what have you, I would also be attempting, covertly, to define—and create thereby—what a Mormon whatever was or is. This is why there is nothing Mormon that is not in reality a creation of somebody’s voice, and that is why the study of Mormon culture or mind or whatever, is little more than a study of certain people speaking. Those who forget this fact may be beguiled into believing they study Mormon X, when in reality they study people talking about Mormon X, or speaking Mormon X into existence; and they themselves must be included in that group of talkers. That is to say, we create whatever we mean by Mormon whenever we use that word. Some people’s words, however, have more oomph, to use a technical term, (but I don’t know what I’m talking about) than do the words of others, being more durable and ready to circulate in the mouths of other speakers.

Being “powerful” in this priesthood of the voice, means your definitions are carried about by others, very often those who claim to provide contrary definitions, or who would be gadflies and bothersome critics. To create an imaginary kingdom, one must also create critics, you see, and spies and zealots; they who presuppose the reality of the thing they doubt or otherwise attempt to liberalize, purify, make more orthodox, or less so; or altered from its imaginary, invisible, intangible nature. So it is that Sunstone—like FAIR and other conferences—is parasitic on the Leviathan that is the Corporation of the President of the Church; many ticks of varying fatness, sucking on the belly of the beast. Without the latter Corporation speaking Mormon X into existence, or into being, there would be little for presenters to doubt, disbelieve, be unfaithful to, stick with, defend and attack, historicize, feminize, capitulate and stand up to, or otherwise briefly seem relevant when speaking about. I often doubt the purposes of symposia like Sunstone, but what cannot be doubted is that “Mormon” as a word carving out something, and is used frequently in these spaces. This fact is why there cannot be a Mormon Studies that is not also using that word in some fashion either aligned with or contrary to someone’s Mormon; most often that someone is a large, highly capitalized corporation that owns satellites. Let me say that again: it, whatever it is, it owns satellites. Not only dishes, but the things in space. A church? For seeing stones we have screens, and for angels we have Satellites to send back our vain imaginings. Yet what father giveth pieces of torn bread, when his children ask for white stones?

Rather than comment as a spectator on whatever someone calls “Mormonism,” pointing out their foolishness or wisdom, the errors of their reasoning, or praising the liberality of their conception, from this point forward I’d like to enter into the game of its creation.

How else can we move things? For do we not all desire change? We can start by reading more and advocating less. We are asked to be righteous. How so? Acting in kindness, acting justly, and extending mercy wherever we might.

Can a corporation be righteous? Is it surprising that Mormons speak of “knowing the Church is True,” but seldom of “knowing the church is good, righteous, just and merciful”? Only beings embodied are just, merciful, and righteous; and corporations, despite the roots of that word, have no bodies. They are closer to Lucifer, being ripped from his body to wander as the unclean spirit, resident briefly in your imaginations. That is where churches and corporations primarily reside, not coincidentally: in your imaginations. They too can, and often, should be exorcised therefrom.

Let me briefly baptize you with something that may clean from your minds the excrement weekly issuing from that which is Wholly Without Spirit. In the context of a discussion with his son Corianton, Alma explains his understanding of various terms, given in translation in our Book of Mormon. Corianton often ignored his father and brothers, boasting in his own strength and wisdom, which pride culminated in his seeking after the harlot Isabel, thereby forsaking his ministry. Although wicked, nonetheless it was possible for him to obtain forgiveness. In the context of his harlot seeking, and the possibility of its forgiveness, Corianton is taught by Alma about restoration, mercy and justice. What he says, I think, is not currently taught in any branch of Mormonism of which I am aware. What he says, I think, shouldn't be neglected. This neglect is perhaps a consequence of using for-profit American corporations as one's model of a modern church, through which is refracted an official reading of that book. In any case, one can still find many things secretly taught in that book, although we need not call these things Mormonism. Corianton was called to prepare a people, and their children for the coming of Christ among them, for “is not a soul at this time as precious unto God as a soul will be at the time of his coming”? Angels were sent to declare salvation through Christ, tidings true then as they are today. Christ is here called God, as he is throughout the book, you'll notice. That is, before they changed it. Don't bother asking me if the Book of Mormon is Trinitarian, or Unitarian, or Pre-lapsarian, Arian, or Whatev-erian: it is its own voice, not a mimic. So it must be read, and not merely catalogued into pseudo-intellectual folders for the shortsighted and mentally shallow, by they who taketh themselves seriously, but treat lightly their reading of books.

Here's what I hear it saying, in part: The man-ification of Christ is part of what Alma calls the plan of redemption. By redemption, I mean, a re-deeming, in the sense that one might “deem” something, or by understanding it anew, judge and decree for it some new path; in short, a re-declaration of our doom, something like “fate” in a more Latin tradition. This is what the word redemption means in this text. It is not the paying for a thing, as one might speak today, in our post-Protestant market-corrupted speech, of “redeeming” a coupon to get a discounted price. Jesus is no coupon for your discounted soul.

A new deeming leads Alma to another R-word, Resurrection. All shall rise from the dead, having gathered to that God which gave them life—either to Ahman or to the Devil, born to that god by their own works, and sealed by their wickedness or righteousness as his sons or daughters or as something un-gendered perhaps. Those born in death as children of Ahman await in paradise. What are they waiting for? The resurrection of their spirit bodies of light, at last transmuted into matter approximating the recalled flesh. And although a paradise upheld by peace where there are no guns among them, or so I'm told, they nonetheless wait

with the taste of bitterness, tasting the “pain of death,” that is, a longing for bodies of firmer, yet more changeable substance.

The children of the Devil, on the other hand, are cast into outer darkness, however; you will notice there is no missionary to instruct and to save them; nor a vicarious baptism for which they sit and wait. There is no such baptism for the dead. Although there is a baptism for a particular group of the Dead, who have waited since the days of Noah for the return of their brothers that departed with Enoch and his lands. But their baptism is not our work. Those children of the Devil are cast out forever, and have no redeeming of their story.

Your souls, I presume, will gather in paradise of some sort; for few among us are magnificently wicked enough to seduce the Devil, so that he might bother with our adoption; though no doubt that does not stop many of you from giving it your very worst effort. Those found in the Devil’s kingdom are dead to righteousness, and can never be redeemed, being consigned by their own works to drink the dregs of a bitter cup. In our mythology, scientism, we might say their light has been perverted or bent in consuming of itself, as a blackhole in space; frozen forever into the void, being beings unbeing by their unbelief, and at last little more than nothing. Their fate as unclean beings is set, and that setting of fate is itself damnation; for spirits otherwise, in their true nature of the Light, come of and are capable of endless creation, endless but nonetheless bounded, creation.

As with Mormons today, in the days of Alma they had a partially correct, and importantly incorrect understanding of resurrection: deeming it then a raising of the spirit but only to happiness. Given their lack of understanding that God himself would take on flesh, die, and then transmute his body of light into something approximating what we call flesh (lacking blood, obviously, to carry oxygen throughout, needing no leverage gained from muscle and bone), given their ignorance, it makes perfect sense they would understand a tradition of resurrection within the framework of their beliefs about the afterlife, and spirits pining in paradise. (Score another point for the Book of Mormon, as a remarkably consistent document, by the way.)

Alma insists resurrection means a uniting of the soul with its body. Obviously our current fleshy, and over time, increasingly inelastic and fleshier bodies, are not those bodies. If it is to be eternal, that body must never have been created, but always is. How can this be? If one’s body is to be resurrected, it would seem to have been created. Yet after resurrection we are eternally in that form, as though never created. I’d say the body of light that is your spirit will be imagined into a body like unto this one of flesh, the one of greater light being drawn from the lesser. Thus the children of God shine forth in his kingdom. And never again will we suffer a separation of our souls from ourselves, as we did in the beginning, when some among us called themselves gods, being enamored by being other than they were; and so ventured into the void, and thereafter doused our bodies of light with their now lessened light. This story we reenact here, briefly, in the mortal unity, and then subsequent separation at death.

Spirits cannot be made, nor destroyed, but they can be of increasingly weak and borrowed light, until nothing but unlight pervades one's being, a new darkness uncreated. Our bodies are drawn where we seek in our heart for treasures, and they are re-shaped in that seeking; dignified and warped and misshapen by the paths we take it on. Those without bodies, say, corporations sole, are not subject to the rule of light, and to its straight courses. That is why we can use them, abuse them, become masters over them, and yet, eventually, be deceived by our own creations.

In the resurrection we—these embodied—are restored to our perfect frame, Alma would say, unmarred and yet not created anew; taking us to the meaning of the word Restoration. Corporations and churches are not restored, for they have nothing to lose, and nothing to be restored to. That which is because someone says it is, has no frame independent of the saying so.

On the meaning of the word "Restoration," Alma comments that "some have wrested the scriptures, and have gone far astray." It is just, he suggests, just that "things should be restored to their proper frame," so it is with that word; and that alone ought to mean what one means when one says "just." To be just, then, would require a knowledge of the proper frames, and that knowledge can only come from their creators. And restoration demands a freeing of the creation from its creators. This is why churches and corporations will never be restored.

If your hearts are good in this life, and your desires; and your works also good, you shall be restored to that which is good. But if evil are your works, and your heart too desires evil, and you do not repent of this evil, then what is restored is not evil (it is not a thing), but works and a realm, as Alma says, "shall be restored unto them for evil." Thus the "natural frame," as Alma is translated as saying, the natural frame for mortality is properly immortality; and of corruption, incorruption. Although decreed out of mercy, death is unnatural; and it came of our corruption of bodies of light.

The word Natural has been given undue condemnation, in Christian tradition, and of course, we've inherited this in our own restorationism, and I'd like to clarify a little bit what Alma means. "All men that are in a state of nature, or I would say, in a carnal state, are in the gall of bitterness and in the bonds of iniquity," This is Alma speaking. Now, "gall" can mean a few different things, in ordinary English. It can mean a painful swelling or lump, caused by poison or by some parasite's depositing of eggs; and bile of the liver or other bitter secretion of the organs, as well. These all might mean "gall". The term is said to derive from Old English *galla*, supposed born from Proto-Indo-European, a totally hypothetical language, *\*ghel*, a hypothetical verb itself, supposedly meaning "to glitter and shine," supposedly derived from glittering material, like gold that gives off a glare, glows, and by its gleam makes one glad. Giving us Old English *gloer*, their term for Amber (the name of my wife, by the way), *\*ghel* also is said to be the root for *yelp*, a sharp cry, and for *geld*, the castration of a horse.

There is sort of no point to what I'm doing right now.

In the language of Adam, we are given a definition from Joseph Smith, one easily mocked by know-it-alls who often haven't heard the fairy tales which place the angels as the original inhabitants of England. In this language, Anglo-man was said to be the name for angels, those glittering beings that make us glad; we being called the sons ahman, an honorific title full of hope, and being yet reserved for fallen mankind who, nonetheless, in the first days were brought here to become in time, the powers of the earth. When the Book of Mormon speaks of white and delightsome, its translator means, "shining, glittering in gladness," not Caucasian. The Old English version of Genesis speaks of elf-sheen, and I suppose that is what our Book of Mormon implies: shining, glittering, lucid being. There is no racism here, but a promise of becoming like Ahman, and to reside gladly in Ahman, the name of Him giving us the name of a realm where his children gather and find rest.

All this etymology is given to say, don't be so sure you know what something means, for even the very wise often cannot tell if one lexeme speaks of glitter, bile, or yelling, perhaps as a result of castration. So it is with nature.

From the galls of oaks one might distill ink, and thus write a new story; or cast a spell, and when a story casts a good spell, we call that, a Gospel. The nature of words is to grow into a tangle, especially if untended; or if attended to briefly by zealous and foolish gardeners.

Where was I heading, before this confounding maze of words?

Nature: Being without God in the world, going contrary to the "nature of God," puts one in a "state contrary to the nature of happiness," telling us that nature is not itself synonymous with a carnal state, but that something's "nature" is what one might call its "true state." To this state you are restored. It is your nature to be glad; for gods fell that you might be, and we are, that we might have joy. When you are in a glad state, you feel your true nature; that is, you. You feel your youthfulness. When you are glad, you feel your soul as it is, the is-ness of your soul, and your feeling is not separated from the thing felt; no longer astray, if only briefly, a happy soul is not contrary to the nature of God. This Corporation cannot reveal your soul, for it has none itself. It cannot make you happy. Only God can reveal your soul, and when you are happy, your soul is in a state of nature, its proper frame.

When you are unhappy, the soul must be out of joint. That disjuncting is our common lot here in this world, and we are here to learn pity, and mercy, thereby; as well as to justly perceive the true nature of souls, and to pursue their proper framing. If church has a purpose, it is to teach us pity, and patience, and in time, I suppose, to bring us to repentance. Repentance of what? Of building a mockery, a dead thing in the image of the living church of the Lamb?

It is the Penitent indeed whom Alma calls "the redeemed of the Lord," we mortals few who have been "taken out, that are delivered from that endless night of darkness, and thus they stand and fall; for behold, they are their own judges, whether to do good or evil." How can we be taken out and delivered from that darkness? The way is prepared, Alma assures

Corianton. In our age, that preparation has been almost fully realized. It culminates in the restoration, a term too often capitalized, and thus seeming to refer us to some ongoing process and event. But Alma does not speak of The Restoration, but only of the Restoration of This and of That. “The meaning of the word restoration,” he explains, “is to bring back again, evil for evil...good for that which is good,” and so on for the righteous, just, and merciful as well. The word restoration, he concludes, “more fully condemns the sinner, and justifies him not at all.”

Is Corianton merely to act good, in order to get goods for his reward? Is it just to punish a sinner, consigning him to a state of misery? All these laws and punishments exist, Alma says, to bring about the plan of mercy. That plan requires atonement: an at-one-ing of God and Man. When I say atonement, I do not mean what a corporation means, what those without bodies speak of, for what do they know of becoming one with another? Only possession, and of possessions redeemed.

What do I mean?

Mercy claims the penitent, and mercy comes because of this one-ing of God and Mankind. The at-one-ing began when Man was given a path undetermined by fate—call it agency—something like unto God’s own course. It continued when God became Man, and we will be further at-oned, we and our gods, in the resurrection. In the resurrection of the Dead we are restored to our nature, being in the presence of God to hear his judging of all our works. Not “judging” in the sense of sentencing by decree, that is dooming, but the sort of judgment given by an art teacher, perhaps, regarding the quality of a student’s corpus. And thus comes the redemption of man, the retelling by a new deeming of our story, and its happy ending, if an end it be. And Mankind will go forth creating, restored to their proper frame. Our future is not to become Gods, to rise to their order. There shall be no gods among the children of Light, for all gods will be reborn as Men and Women, glad and glittering, free of destiny, thus alive; and no mere satellites to objects of greater mass and density.

How do we move things without leverage?

Consider the lilies of the field. They toil not, neither do they spin. If you would be children of your Father in Heaven, who sends rain on the just and on the unjust, and who blesses those who curse Him, you would do likewise as your Father.

So in a few pages I’ve given you a complete retelling of the mythology that I don’t want to diminish by calling it Mormon. By commenting, I hoped to participate in your world; rather than merely spectate on what some people call Mormonism. I’ve told a story, maybe cast a spell that bewitches if none other, at least myself. So I say, it is the gospel. You are not compelled, neither are you condemned for not knowing the truth. You are only asked to believe in a story that casts a good spell, that glittering tale of Jesus and the gladness of angels, and to let that belief lighten your soul. The only sacrifice—the only thing to set

aside—is your heart; set aside in your heart a little space for God, and he will fill it with light.

There are only two churches, and the church of the Lamb has not yet descended with Enoch from heaven. You must have great faith to believe in Mammon, that's what I'd say to the priests of Mormon Incorporated; far beyond the heft of a mustard seed which God asks of his children. Have you not many millennia of Mammon's work to judge by, and your own lives as evidence? It may be our lot to earn our bread by the sweat of our brow, but we can only have joy in our labor, and not only for a season, when it leans exclusively toward the immortality and eternal life of man.

Consider the lilies of the field, how they grow: they toil not, neither do they spin. In the Book of Mormon, Jesus asks his audience—to consider this—but only after they have been warned to not try to serve two masters.

Consider the lilies. They are arrayed more gloriously than Solomon, because that is their nature. You are not told to sit around waiting for God to feed you, nor to spend your days in idleness, lazing in various fields of lilies. We are not told to toil not, nor to pretend to be lilies. That is not what Jesus asks. Jesus says consider the lilies. Jesus seems to be telling a few chosen at Bountiful that just as God has clothed a field of grass in glittering lilies, so he might adorn your cloth and toil, and deem it glorious. Seek ye first the kingdom of God, (this seems like a pretty fundamental phrase) and the things ye stand in need of shall be added to your toil, to your spinning; even if only spinning your wheels in the seeking for God. In the creation of a church, and then its transubstantiation into a corporation sole, we have cheated ourselves of witnessing the evidence of that command's truthfulness. Awaken.

See that in 1830 the Book of Mormon was kidnapped and made to say absurd things, as kidnapped people are wont to do, and yet it remains for us to read, and to see in it another way to build the Kingdom of God. It's for Mormons to do this. His house has been ruined, and yet will be restored, someday. That is a good saying; that is a gospel.

The way is narrow, even for those warned away from strange roads; and few find it, for many are led astray by wolves dressed as sheep, in fine-twined Utah woolen mills suits, by false prophets revealing God only in Mammon's profits, that f-ing incarnation; they have their uses, do those profits; but pointing to God is not one of them. If you would be Mammon's children cast into darkness, follow as you can that thing bereft of a body—a corporation—a will o' wisp worshipped by old men robbed of reason, and yet not bereft of their jowls, nor their wagging fingers, and their naked compromises. A market driven profit does not love his enemies, neither blesses those who curse it, and cannot pray for those that persecute it. Do not follow after it.

[muffled audience comment]

After giving his advice, Jesus concludes with instruction to the faithful who would be the children of his father: love your enemies, bless them that curse you, (or those that tell you

to be quiet). They that may be the children of your father who is in heaven (this is the last paragraph, actually). [muffled audience comments] Bless them that curse you, that you may be the children of your father who is in heaven, for he makes the sun to rise on the evil and the good, and sends the rain, sometimes in season and in due measure. Sometimes it floods, but in either event, we will always have our rainbows and sunsets, and sunrises, too, and the green things of the earth adorned by these lights made flesh. That is the nature of nature, I deem, to turn ever back to that which gave it shape; bent back, if briefly lost, bent back by the unmarketable, by so unbarrellable a commodity as the light, as Emerson says. In the heart of the living is the light. In the heart of corporations sole, you will find neither soul, nor corpus, nor light. Thank you.

[audience applause]

**Denver Snuffer:** The some hundred-plus corporations that the Church of Jesus Christ of Latter-day Saints now is comprised of is no accident. When the saints moved westward from Nauvoo the treaty of Guadalupe Hildago was signed on February 2, 1848, which conveyed to the United States the present day states of California, Nevada, Utah, New Mexico, most of Arizona and Colorado, parts of Texas, Oklahoma, Kansas, and Wyoming, over which there was simply no law. In a vacuum, which is where the Church found itself, the Church began to license timber, the Church began to give deeds, the Church began to assume authority over water. This was a necessary civilizing step to be taken, otherwise people could not have the confidence to go forward and do anything. Therefore, the Church became the center of property, the Church became the center of government, and the Church became, by necessity, the entity through which all of the territory got organized. How thorough that organization became and was dependent upon the Church can be determined from where the Salt Lake Basin Meridian is located in order to determine by meets and bounds where all of the property of you people who live in Utah is reckoned from. It's the Salt Lake Basin Meridian. If you go to Temple Square you will find the marker there that was set by the coordinates determined by Orson Pratt when he said it in 1855, but he did it based upon where Brigham Young set his cane down and said, "This is the place," that defined Temple Square. We have a legacy that created the legal environment that begins with the western migration.

On July 10, 2015, the Church announced that it was going to develop, on 133,000 acres in Florida, a new development that would include buildings to house 500,000 new residents. To give you an idea of how big that project will be, it would require you to take all of the populations of Salt Lake City, West Valley City, Provo, and West Jordan together in order to come up with residential housing for 500,000 people. It's not housing alone because these people need gas stations, these people need sewer systems, these people need everything that goes on in order to have that many communities. Think of the engineering and development, think of the building and housing, think of all of the opportunities for commerce, employment, school, church, think of everything that would be required in order to establish right now, from scratch, enough development to fit in Layton, St. George, Ogden, Sandy, Orem, and West Jordan, and you have some idea of the scope of what this development in Florida is going to entail. The youngest member of the current Quorum of

the Twelve is a year older than me. He will not live to see this project through to completion. Do not think for one moment that the development of property by an owner is simply a discharge of responsibility to architects and engineers because there are numerous decisions that have to be made all along the program in order to turn ground into a development. I know because, as a lawyer, I have done a great deal of that.

Take, for example, just the engineering issues that are involved in sewer systems. The state of Florida is overwhelmingly below 60 feet in elevation above sea level and it is essentially flat. If you are going to develop a sewer system for a half million peoples, residences, businesses, and everything else, you are going to have to make a lot of engineering decisions along the way. There is no architect, there is no engineer, that's going to assume that responsibility. They're going to require the owner to assume the responsibility and to answer all of the questions. Which means, you are going to be baby sitting a development for the next 50 to 65 years in order to see it through to completion.

Now, as an example of how decisions made early on occupy the attention of the First Presidency and the Quorum of the Twelve, I want to read you from some minutes in January 1891, a meeting of the First Presidency and the Quorum of the Twelve. It's held at the Gardo House because the temple would not be completed until 1893. Between the time of it beginning and the time of the temple being completed, the First Presidency and Quorum of the Twelve met in the Gardo House. These are minutes taken by one of the members of the Twelve, Abraham Cannon. "January 23, 1891, 11 a.m. At this hour I went to a special Quorum meeting at the Gardo House. Present: Wilford Woodruff, George Cannon, Joseph F. Smith, Lorenzo Snow, Franklin D. Richards, Franklin M. Lyman, John Henry Smith, Heber J. Grant, and myself. The question of the sugar industry was discussed and each expressed his view of the matter. President Woodruff was very anxious to see it established and felt it was a matter which should interest and engage the attention of all. Joseph F. Smith felt that a success should be made of this labor because of the evil results which would follow a failure of our endeavor." They go on from there, ultimately deciding, and in light of the hour I will spare you those minutes, ultimately deciding to go forward with it in part because one of the large gentiles in the valley predicted the Church would fail in it, and the Church didn't want him to be vindicated, so they decided they were going to get into the sugar industry.

Now, if you go forward 40 years later, the decision to start the sugar industry comes back in minutes that I take from the diary of Heber J. Grant on December 23, 1930. "George [Spencer] said he thought it would be a mistake for Orville Adams or myself to go on the sugar board. It would create comment that it might not be favorable to the banks, and Brother Ivins seemed to agree with him. I said that it is a Church institution and we must save it. Brother Ivins said he was opposed absolutely to the Church attempting to save it, that it is not a Church institution. I disagreed absolutely with him in my feelings. It is more of a Church institution almost than the two banks, and should anything happen to it, it would affect the banks ten times more than anything else that could happen, because the Church originally called people practically on a mission to invest in it. I delivered letters signed by the presidency of the Church asking for investments. It is looked upon as a Church institution. The Church owns 72.5% of the preferred stock, and if we do not protect

it, it will weaken the credit of the Church all over the United States, in my judgement. We were jeopardizing not only a great institution but the credit of the Church if anything happened to the sugar company, as it would injure the three banks in which the Church is interested, Utah State National, Zions Saving Bank, and Utah Savings and Trust Company, ten times more than if they were to put up a lot of money and actually sustain a loss." So now, in order to protect the credit of the Church and the banking institutions, the sugar enterprise that was undertaken needed to be bailed out and needed to be supported.

But that's not all. The issue of sugar and the sugar industry affected even General Conference talks. This is on April 5, 1932. "Brother Lorenzo Elggren called and made an appeal to me as he is representing a big candy company; that in my conference talk, (this is the Church President's proposed conference talk) "that in my conference talk I do not discriminate against the candy people. He told how many carloads of beet sugar they thought they bought for candy and that McDonalds and Sweets used a lot of cane sugar, that the company he represents is four or five times as big as both of them, and has never bought anything but beet sugar, thus sustaining home industry. I told him I would forget to make a strong appeal for home manufacturing, although I said, "You know, Brother Elggrin, it would really be better for the people if you could not sell any candy here, because it would furnish that much more employment." So he dropped out of his General Conference address anything that related to the sugar industry and home industry.

If you think that the meetings of the Quorum of the Twelve involve something that you believe Jesus would want to attend... [audience laughter and muffled comment]

President Woodruff- This is on April 03, 1899, these are minutes from the secretary to the First Presidency, L. John Nuttall. "President Woodruff called up the misunderstanding between Brother Moses Thatcher and George Q. Cannon on the Bullion Beck and Champion Mining Company matters, which he wished to have settle. I read all the correspondence between the parties and President Woodruff since this affair was brought up by Brother Moses Thatcher on December 03, 1888, after which the brethren spoke, Brother Cannon having submitted a very fair proposition for settlement. Brother Thatcher was very persistent in his views. The matter was left over to give Brother Thatcher time to examine Brother Cannon's position. Each of them expressed themselves as not having any feeling against each other so strong but what they can attend to the general business before the council."

As you go through the minutes of the First Presidency and the Quorum of the Twelve, what you learn is that, that corporate enterprise that the Church has found itself owning, owns the Church. You can't have a multi-billion dollar business enterprise and neglect it. Those 105+ corporations demand attention and they receive attention.

This is a Thursday meeting in the temple on December 28, 1893. "In the afternoon was in the temple until 5 o'clock. There were present at our meeting all of the presidency and Brother's Lorenzo Snow, Franklin D. Richards, Francis M. Lyman, Heber J. Grant, and myself. George Gibbs was clerk. The matter of purchasing a coal mine in Iron county, and the

constructing of the railroad to the Pacific coast was next considered. Father made a statement of his labors in the East recently and said it was proposed by the manufacturers of the rails and so on that the Church endorse the bonds of the proposed road, in which case they will bring 30% more in their sale than if they are placed on the market unendorsed. The proposed coal mine purchase is a mine owned by Wooden Jensen by Cedar City, and which contains an inexhaustible quantity of coal. The price proposed is \$32,000 for a section of coal but it is believed that a little reduction can be got on this figure. The whole matter was fully discussed but it was becoming late and we adjourned until tomorrow. The next day, all were in attendance today who here yesterday. It was decided that the presidency be authorized to take all necessary steps to carry the project through to successful completion. Whether this means the using of Church funds for this purpose, or the endorsing of the bond, so as to place them on the market and obtain the highest price for them.”

The business of the Church is business. The ownership of the kingdom requires that the kingdom be maintained, and if your kingdom is of this world then the worldly concerns related to your kingdom necessarily require your attention. At the end of the day one of the product lines of the Church of Jesus Christ of Latter-day Saints, which is owned by the Corporation of the President of the Church of Jesus Christ of Latter-day Saints, one of the product lines is the religion called Mormonism. That religion can under perform and not produce the revenue stream in tithing that you would like it to see. That’s a good revenue stream because from it, all revenue is untaxed. The way to stimulate that revenue stream is to get out in General Conference and to talk about the necessity for increasing the performance of that part of the product line. But if it underperforms consistently you can always diversify by investing in and improving, for example, a mega mall, a condo project, an office and retail space in Salt Lake City in City Creek or in Philadelphia, as they decided to do, or a massive project like the one that is currently done in Florida. But when you undertake those projects it’s going to require the continual babysitting by the First Presidency and the Quorum of the Twelve. It’s going to occupy, as it has for nearly two centuries, the meetings that are held in the Thursday get-together of the Brethren. Thank you.

[audience applause]

**Bryndis Robertson:** Good afternoon, everyone. As Brad said when he introduced us, my name is Bryndis Robertson. I am a practicing attorney in Atlanta, Georgia. A number of my clients are churches, clearly not the LDS Church. The churches that I represent range in size from about 200 members to 30,000 members, which in an independent church, is considered a mega church. I think the difference that I see in what I do, and what my panel members have been talking about, about the LDS Church, and I think Denver captured it when he said when the Church came out to Utah the Church was the center of everything. In Georgia we have over 10,000 churches but no church is the center of everything in Georgia.

When I started preparing for this session and I was reading about the Church and the Church being a corporation sole, I thought, I've never heard of that in Georgia. Can we even do that in Georgia? I went back to the corporations code, and I shook it, looked at the pocket part, and I shook it a little bit too, and I saw nothing in the corporations code about a corporation sole. I said, then it must be a creature of common law, and so I need to look in the case law. One of the few cases that I was able to find was an 1882 case, and it involved the Catholic Church. So I'm pretty sure that in Georgia, if there are any corporations sole, they all relate to the Catholic Church. Most of the churches that I represent –and I would venture to say that most of the churches that are represented by any of the attorneys in Georgia –they form themselves into three things; they are either an unincorporated association, a nonprofit corporation, or a charitable trust. Generally they are not a charitable trust, it's really the other two, an unincorporated association or a nonprofit corporation.

The church that my 86-year-old mother attends, Mt Venus Baptist Church in Gay, Georgia, with about 200 members, is an unincorporated association. In that form they don't exist as with papers and documents and charters, they don't have any of that. They have a church creed which hangs up on the wall that basically says, we believe in God the Father, we believe in God the Son, we believe in God the Holy Ghost, and then it says a few other things. That really is the operating document for my mother's church.

I also represent some churches that have about 30,000 members. Those churches have chosen to be nonprofit corporations. I can tell you, I cannot imagine any of those churches who would be trusting enough of any one individual, or any one office, that they would let themselves be formed as a corporation sole. They've got to have board members, [audience applause] they have board members and ways to remove those board members, all sorts of things.

The question I think we ask as members when we're saying, would Jesus Christ be attending the meetings that Mr. Snuffer was talking about, what really would Jesus Christ be looking for the church to do? What would he be looking for the 21<sup>st</sup> century church to be doing? I submit to you that he would still be looking for the 21<sup>st</sup> [century] church to be feeding the hungry and clothing the naked [audience applause].

He also would want churches to be good stewards. If a church is taking in money from its members, and growing up Baptists we had all sorts of collections. We had the general collection, we had what was the benevolent collection which we call the Poor Saints Offering, and that means exactly what it says, it was for the *po' saints*. I think Jesus Christ would also want us to be good stewards of the money that we take in. When I am representing my clients and they come in with whatever idea they may have—they come in and they want to buy this plot of land in Dekalb County, and they want to build a senior citizen's center—the first question I say to them, is how does that help you do what Jesus Christ would want you to do? I also say to them, do you not remember the last time you wanted to build whatever it was you wanted to build, and then as Mr. Snuffer says, all of

your time was taken up administering whatever this was that you wanted to build and you didn't have time for doing the things that Jesus Christ would have us to do.

I think it's not really the form that our church has decided to operate within, I think the problem is that as we have grown larger and larger, that we somehow have forgotten what it is that Jesus Christ would have us to do. What I would say to each one of us as members, the way I define a church, it's not the church office building, it's not even the Corporation of the President of the Church, it's not the Corporation of the Presiding Bishop of the Church, but the way I define a church; **we** are the Church. If you believe that with me, that we are the Church, then we can change the Church. It may take us—I don't know exactly what that would look like, so don't come up to me afterwards and ask me, "Bryndis, what will that look like?"—but I think until we decide that we are not just so dissatisfied that we want to have symposia and talk about what the Church is not doing, but we actually want to change what the Church *is* doing, and until we, in the words of an old deacon in my mom's church, "Until we get up off of our rusty dustys and actually get about the business of changing what the church is doing, nothing is going to change." If you are concerned, if we're concerned, that we have somehow, or that we have gotten away from what Jesus would have us to do, I submit to each one of you that it is on **you** to change that. [audience applause]

When my clients come and talk to me they're usually concerned about three things; they are concerned about taxes, they're concerned about litigation, and they're concerned about succession. Unfortunately, the world in which we operate, you cannot be a church and not worry about those things. If you start doing things that the IRS views as unrelated business income then it's going to tax you on that. If you do things that are not in keeping with good practices you are going to get sued. If you don't put forth some sort of plan for when the people who started the church are no longer here then the church is not going to continue to exist. My challenge as someone who approaches my practice as a Christian, who is wanting to help my church clients do the things that they want to do in keeping with the way Jesus Christ would have us to do those things, my advice to those clients is always based upon the premise that we've got to keep things as simple as we possibly can, but still protect ourselves from those worldly things of taxes, litigation, and succession. I am constantly amazed, and I know the people who represent the Church are probably a lot smarter than I am, but I am constantly amazed at the things that I see when I walk around my ward building that I never would approve of, or if my clients asked me about them, that I would be jumping up and down if I saw some of my clients doing those things.

One big example that leaps out to me are the ecclesiastical interviews that the bishop holds with young men and young women. If one of my church clients came to me and said that our pastor, our bishop, or apostle, whatever they want to call them—because in the Baptist church you can just kind of pick yourself a name—but whatever you want to call them, that when all of the young people turn 11 or 12 he's going to start interviewing them, and he's going to do that in a room where it's just him and one young person by him or herself, I would be like, that's the craziest thing I've ever heard of. I would be asking them, "Are you wanting to get sued? Do you want every lawyer in every county in Georgia to be lining up at

every courthouse in Georgia to be suing you every day?” Again, I think as members we owe it to ourselves to get off of Facebook, get off of Twitter, get off of Instagram, and spend some time actually looking at what our Church does and what it does not do. If there are things that we do not like, we owe it to ourselves, we owe it to our ancestors, to get up and do something about changing those things. Thank you.

[audience applause]

**Brad Cramer:** I want to thank the panelists again. I think that the Q&A is going to be interesting. I would like to say that as an anthropologist who spent some time studying corporations, studying churches, studying religion, and studying the LDS Church, I think that this entire discussion is circling around a really central question. Anthropological theory and other disciplines, including legal scholarship, have been trying to think critically about what a corporation is, and how to make sense in terms of the world that we live in, in terms of the social reality; what a corporation is. A question that often is neglected in this conversation, and scholars of religion love asking the question of what religion is. What is religion? It turns out it's very difficult to define, especially in a kind of anthropologically neutral way.

The question that doesn't often get asked is, what is a church? What does it mean to be a church? What *is* a church, what does that word pick out, what does it refer to? Does it refer to a building, does it refer to a membership roll, does it refer to an ecclesiastical structure, does it refer to a corporation and incorporate some sort of legal entity? What is a church, and the related question of what should a church be or what should a church be doing?

I think that among other things this panel has posed a set of important questions for us, those of us who are interested in Mormon stuff, and that is what happens when you think about these questions of what a church is, and what the LDS Church is, and whether the LDS Church even exists, Daymon? What does it mean to have the kind of history that the LDS people have had? This is something that I think especially came out in Denver's talk. Most of us instinctively think of a church as something that just coexists along a whole range of other things, of other kinds of entities, right? A church doesn't do everything, it just does church stuff, and other things do other things, like ball parks and city planning and education and farming, and what does it mean for part of its history the LDS Church did everything, was the center of everything? And how is that reflected in what David described for us in his presentation about the more recent history of the different legal entities that are collectively known as the Mormon Church.

I know we have a couple of people in line here. Let's go ahead and ask and answer some questions, and we will try to get them answered.

**Audience member:** Thanks, Brad. Very quickly, David, my son-in-law interned at Curtain Law Firm all three years he was at BYU Rulon Clark Law School, and did not take the job they offered him for the reasons you just said. Thank you.

I'll never try to snuff a Snuffer, thanks.

Daymon, the largest client I have worked with in the last three years is an international privately held massive corporation named Daymon International. You are a spell-binding poet, you cast a spell. Your logic was at least entertaining and for the most part, compelling. If you want a job I can get it for you Monday in New York.

But I have a question. How does the Supreme Court decision that defines a corporation as a person affect your comments? Thank you.

**Daymon Smith:** I think everybody heard, but the question is; how does the Supreme Court's decision, essentially declaring corporations as a person, affect my analysis or the story that I'm trying to tell? What I would say is there is a priesthood of the boys and certain people in robes have certain kinds of power that we call in linguist anthropology the ability to performatively create things. They created this thing out of their voices. It doesn't change the dynamic of imagination. By imagination I don't mean it's not real, it is real, it is definitely a real thing. Anybody who is here today knows corporations are real. They are absolutely real, but where are they? This is a question I ask my anthropology students on the first day; where do these things exist? Well they are in many places but one of the places they are in, is in our imaginations.

Things that have bodies, of course, can get into your imagination. Celebrities, maybe something you think about frequently, or some sports athlete, or something like that. Corporations in this sense have become humanized in many ways. Part of the problem is we haven't developed a framework for talking about corporations as, say, theological people. We have them as legal people but we don't have them within this framework of, how do they fit inside salvation? How do they fit inside resurrection? How do they fit inside these things that we as humans are deeply concerned about?

Part of what I was trying to say here was to say, where is the place for this thing in the bigger picture. It's one thing just to use the word Corporation as a dirty word, and sometimes people accuse me of just doing that, but I wasn't just doing that. I've never just been doing that. My reasons have always been fit inside a larger concern about humans. We have bodies. I can be tortured. I can be imprisoned. There are things that I can do as a person, that can be done to me, that can't be done to a corporation—yet. I'll try to torture them as much as I can, I suppose, but only through the voice. They're entities of the voice so they can only be addressed that way. Great question.

**David Read:** One way they can also be addressed is in litigation, right?

**Daymon Smith:** This is a peculiar genre of speaking, right?

**David Read:** It's a very peculiar genre of speaking, but it's a genre of speaking that's actually capable of addressing a corporation as a person, right? So if, for example, somebody wants to sue because their teenage daughter has been inappropriately

interviewed by an ecclesiastical leader, do they sue the bishop? Or can they sue the corporation? They can sue the corporation, right? Could they if corporate personhood didn't exist? [muffled audience comments] I'm asking that because I don't know. Can the corporation, can the Church as an entity, be sued in the absence of corporate personhood?

**Bryndis Robertson:** You can sue an unincorporated association. I know with the Catholic Church, with a lot of the abuse cases, it has started breaking things down. No longer is all of the property owned by the Diocese. It's breaking the property up and putting it with the individual parishes. That is not so much to change who gets sued, as it is to change how much money is in the pot that's available to the people who sue. An unincorporated association can be sued, because a corporation sole is something I've never really worked with.

**David Read:** I'm not asking specifically about a corporation sole, I'm just wondering about the legal personhood.

**Bryndis Robertson:** If someone came to me talking about suing a church that I did not represent, if it were incorporated we would sue the corporation and we would sue the board of directors.

**Mike:** Corporations exist for a variety of reasons. They all revolve around this notion of ownership of real property and financial resources, and to protect the liability of the individuals who incorporate this entity.

**David Read:** And are managing it.

**Mike:** So, if we look at the corporation sole and there are this vast army of all of these corporations that have been incorporated, they all feed up to the ones at the top that are held and owned by the Corporation of the First Presidency, so I'm trying to wrap my head around the implications here. This says to me that every single piece of real property, bank deposit, and financial asset of the Church is under the direct personal ownership of Thomas S. Monson. If he chooses to write himself a personal check and liquidate 100% of all church assets and put them in his own personal account, once he deals with the IRS and the other liabilities, there's not a damn thing any one of us could do to stop it. What does that have to do with the law of common consent, which the D&C says we are required to use in all things?

**Denver Snuffer:** You could get a group together and you could unanimously vote out all of the leadership of the Church, and Thomas S. Monson could lock all of the chapel buildings and lock all of the temples and say, "Okay, go ahead, but I own it all." He would own everything. There would be nothing that Mormons would take ownership of themselves but they couldn't even use the name, the Church of Jesus Christ of Latter-day Saints, because it is a mark that is owned by the Corporation of the President.

**Brad Cramer:** Can either the Corporation of the Presiding Bishop or the Quorum of the Twelve exercise a check there, do you have [cross talk]

**Denver Snuffer:** They are owned by the Corporation of the President.

[Audience comment, inaudible]

**Denver Snuffer:** Would not change the ownership.

**Brad Cramer:** Would it change who owns the property? No.

**Denver Snuffer:** There is one owner, there is one member, and he owns everything. It is always the senior-most member of the Quorum of the Twelve, and he owns everything. It's not subject—the words are up there, he put them on the board. It's not subject to a vote or approval by anyone.

**Audience comment:** Even when he is mentally incapacitated?

**Denver Snuffer:** If he is mentally unable to serve then it moves on to the next who is senior most.

**Brad Cramer:** They have auto pens to do that, to sign documents.

**Denver Snuffer:** Right. They never dispossess him because of the ability to keep going.

**Bryndis Robertson:** Which is the point I was making when I said, none of the people I know in Georgia would ever set this up, because they would never trust anybody that much.

**Brad Cramer:** That is a unique facet of Mormonism, right? This is a complete trust of the President of the Church?

**Denver Snuffer:** At the end of the day there is one Mormon, there is only one Mormon.

**Daymon Smith:** So it simplifies the matter of common consent considerably.

**Denver Snuffer:** Yes. [audience laughter and applause]

**Brad Cramer:** I think we have time for one quick question.

**Audience comment:** So if John shows up then he's the senior apostle and automatically takes them. That's not my question. I did a dissertation on corporate diversification and all the down sides of corporate diversification seemed to be present in the LDS Church. Businesses get funded long after the market would have long shut them down. We call it corporate socialism. The managerial distraction that it takes time to run multiple businesses and so you don't have as much to donate to the core business, which presumably

would be feeding the flock and all that. My question is, what would be the optimal governance form for God's church? One option would be you could break it up and say, because the question remains, who owns the meeting houses, who owns the temples, you could have stakes own the stakes, that kind of stuff. Given the situation that we're in, what would the optimal governance form be? And the other question would be, let's say we had a real Zion, and Zion was still subject to the laws of the United States, how would that be worked out? Who would own the property and such for the group?

**Denver Snuffer:** In the early Church everything was done through conferences. At every conference that was held someone was elected by common consent to preside at the conference. Usually if Joseph Smith was there they elected him but they could have elected anyone. If a conference invited everyone it was called a General Conference. If instead of inviting everyone, it was for a specific area, then it was some kind of local conference. They'd elect someone, then that someone would conduct the business. It would all be done by common consent and anyone that had any business could bring it up, and anyone that had any complaints or suggestions could bring it up, and if anyone needed to be disciplined they could bring it up, and the purpose of the conference was to take care of the business, to make sure that the community was cohesive, and that issues were dealt with. They even used conferences to get revelation. One of the brethren early on wanted to know whether or not he should go on a mission moving to Missouri, and so the conference was called to address the issue. Everyone discussed it, and then they took a vote by common consent and they unanimously decided on whether to go or not go or send him on a mission.

**Brad Cramer:** So common consent is an answer here. Anybody else want to add? Daymon?

**Daymon Smith:** It's important not to idealize the early Mormons. They screwed up a lot of things. If you read the meeting minutes, these are meetings most of us would want to be a part of.

**Brad Cramer:** Or Jesus, for that matter.

**Daymon Smith:** Yeah. There was a lot of people being wrung up on things that were pretty petty. Again, this is a problem where if you don't have a standard foundation that everybody agrees upon, that this is what we are supposed to abide by, if all that is completely flexible and invented on the fly, anybody can come up and bring charges against you for virtually anything they would like to bring charges against. There are a number of problems that still haven't been resolved, going back to that. But in terms of what would be the ideal form, it seems like the only form is to have no form whatsoever, to have no incorporation whatsoever, have no ownership of property. If nobody owns anything they can sue something but that thing doesn't have anything to take. I would say that's the only way to actually do it. It doesn't seem like no matter how big and strong you are, you're ever going to be free from litigation. There's always a state which is larger, it seems like. The only way to go invisible is simply to not engage in the things that it knows are real and that's things that can be passed around, like property.

**Denver Snuffer:** The most enduring thing there is, is an idea. You can't tax it and you can't confine it. There's no law against it and there's no way to suppress it. The most durable thing of all is an idea. Paul on Mars Hill, giving a talk advancing an idea, is still with us and influencing us today. The Roman Empire that looked so formidable, when he gave that talk, is nothing but dust. There's only one building remaining in use from the entirety of the Roman Empire. But Paul's talk still resonates.

**Brad Cramer:** David and Bryndis, I think we would like to hear from you on this question too.

**David Read:** Before the Edmunds-Tucker act was passed, which is the act of Congress to take property from the Church, which they did.

**Daymon Smith:** And they disincorporated the Church.

**David Read:** They disincorporated the Church, and then there was a case following up that in 1890, the court case affirmed Congress, and five months later polygamy ended. But Franklin S. Richard was very involved with the courts, with Congress, and he knew that this was going to happen, and he was consulting with the First Presidency and the Quorum of the Twelve, and he says this. He's trying to advise them to put all property into local wards and stakes to avoid liability so that they can not take the property. His comment is this, in 1920 he writes, "There was considerable reluctance on the part of the First Presidency and the Apostles to take the titles from the Trustee-in-trust and vest them in local corporations." The reason is, is because there would be boards of directors and there would be shared governance, and they did not want that to happen.

**Brad Cramer:** Bryndis.

**Bryndis Robertson:** I don't know with a world-wide church, if you want to have a centralized world-wide church. I don't know how you don't have some form of organization, it just simply would not work. You're trying to take something that's manmade or government made and apply it to something that's supposed to be really spiritual, and so there's not going to be any really good thing to do that. With the clients that I've represented, that have been the most successful at trying to keep their mission focused on what Jesus would have us to do, the nonprofit corporation has been the organization that has been most helpful for them with boards of directors. Now again, recognize I'm representing individual churches, not a world-wide organization. If you are talking a world-wide organization you still would have hundreds of corporations. At least in my mind, all of those hundreds of nonprofit corporations would make more sense than what we have right now.

**Brad Cramer:** Can we give our panelists, and Sunstone, and Lindsey, another round of applause!

[audience applause]

[Transcription Kiyoko Ball, v1.2]