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Inspired Constitution

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mental deprivation of property or any restraint on the liberty to contract in numerous situations. Since that time, the Supreme Court has moved, particularly since 1937, to tipping the scales in favor of the rights of government as against the rights of property and contract.

In summary, a review of four principal doctrines of the Constitution designed to support freedom, shows that all have deteriorated under changing historic circumstances. As Corwin concludes: "What was once vaunted as a Constitution of Rights, both state rights and private rights, has been replaced to a great extent by a Constitution of Powers."¹⁰

If, then, we recognize that constitutional doctrines once thought to be important to the maintenance of freedom have been eroded and weakened over the decades, we are left with the challenge of thinking through the question of what steps should be taken to help preserve and magnify freedom in the future.

¹⁰Corwin, *The Constitution*, p. xxvii.

Inspired Constitution

RICHARD L. BUSHMAN

Latter-day Saints cherish the Constitution of the United States. Though all Americans revere this important document, we believe it was inspired of God. The Lord has said He "established the Constitution of this land, by the hands of wise men . . . raised up unto this very purpose."¹ Consequently, we believe that constitutional principles are the surest guide in times of political confusion, and that following them is the best way to preserve our liberty.

Unfortunately, remaining true to the Constitution is not so simple as it sounds. From the first years when government was established under its provision, political leaders have differed on interpretation. Loyal and intelligent men have not seen eye to eye on how the principles embodied in the Constitution are

¹*Doctrine and Covenants* 101:80. Hereafter abbreviated D.&C.

to be applied in concrete situations. These differences raise a perplexing question: which interpretation of the Constitution embodies the principles God inspired? Unless we know what is of true and lasting value in the Constitution, it is of little worth as a guide for our actions in day-to-day political affairs.

I do not expect to answer this question fully, but we are, I believe, nearer to an answer if we understand clearly what it means to say the Constitution is inspired. In the Church we know that inspiration takes different forms. The revelation a father receives to guide his household is of a different order from that given the Prophet Joseph when he wrote the seventy-sixth section of the Doctrine and Covenants. The first is intended for one family and usually is not applicable to others; the second is universally true and of lasting value to all. Where does the Constitution stand in the spectrum of revelations and inspiration? An examination of the alternative answers to this question will help us solve the larger problem.

1. *The Constitution was inspired as a guide, solely for one time and place.* Under this interpretation we should feel free to alter it whenever conditions change, or, if it seems appropriate, to abandon the document altogether. We might liken the inspiration of the Constitution under this interpretation to the command Noah received to build an ark. Noah was expected to obey the commandment, but it was not binding on any who followed him.

I do not believe that Latter-day Saints can hold this view of the Constitution in light of what the Lord has told us about it. He has said that it "should be maintained for the rights and protection of all flesh, according to just and holy principles."² It was not intended for one people alone, but as He said, for "all flesh." The words, "just and holy principles" imply eternal not temporary truth. It is clear in the scriptures that the Constitution transcends a relativist interpretation.

2. *The Constitution is inspired word for word.* Under this interpretation we should feel obliged to hold strictly to the literal meaning of every provision. We would not dare to change or amend it. Government would be authorized to perform only those actions specifically mentioned. This interpreta-

²D. & C. 101:77.

tion of the Constitution's inspiration would give it the same value as any section in the Doctrine and Covenants. Indeed, we should think of the Constitution as an extension of our scriptures.

This absolutist view, however, is no more acceptable than the relativist interpretation. To begin with, it is not compatible with the document itself. Provision is made in the Constitution for amending it. The framers expected that there would be changes from time to time while no book of scripture provides for its own revision.

Moreover, our prophets have specifically told us that the Constitution is not perfect in every sense. Here is what Brigham Young said on the subject:

The signers of the Declaration of Independence and the framers of the Constitution were inspired from on high to do that work. But was that which was given to them perfect, not admitting of any addition whatever? No; for if men know anything, they must know that the Almighty has never yet found a man in mortality that was capable, at the first intimation, at the first impulse, to receive anything in the state of entire perfection. They laid the foundation, and it was for after generations to rear the superstructure upon it. It is a progressive—a gradual work.³

Sound as it is, the Constitution is simply the foundation on which we build government; it is not a complete and perfectly framed structure.

Though none of the founding fathers would have claimed more for their work than President Young did, they disagreed among themselves on how much leeway the Constitution allowed the government. Immediately after the Constitution was put into effect, they debated issues similar to those we have raised here. Some of the early leaders favored a strict interpretation of the Constitution, and others advocated a loose construction theory. The advocates of strict construction held a view similar to the absolutist interpretation. The government was to engage only in those activities specifically mentioned in the Constitution. The loose constructionists believed that a wider range of programs was open. Anything that was "necessary and

³*Journal of Discourses*, VII, 14.

proper" to the execution of specified powers was, to their minds, authorized by the Constitution.

The specific bill that touched off the debate was one creating a national bank. The Constitution says nothing about banks. The strict constructionists argued that the national government, therefore, had no right to charter such an institution. The loose constructionists, on the other hand, insisted that a bank was necessary to carry out other powers delegated to Congress. Eventually the loose constructionists won out; Washington and Hamilton, along with most of the members of Congress, supported a national bank. Jefferson and the strict constructionists were defeated.

The episode is helpful in answering the question we have set for ourselves, because later on, the Prophet Joseph, took a stand on the very issue the founding fathers had debated. In his platform, written to support his candidacy for the presidency in 1844, Joseph came out in favor of a national bank.⁴ By so doing he placed himself on the side of those who favored the loose construction theory. It is also interesting to note that in his own day, strict constructionists held rigidly to the doctrine of states' rights. They believed that the national government should not intervene in any affairs that primarily concerned the states. Joseph despised this doctrine, because it was in the name of states' rights that President Van Buren refused to defend the persecuted Latter-day Saints in Missouri. Joseph thought it was foolish that government should be dedicated to the protection of human rights and yet be denied the power to defend them. He favored a broader interpretation of the federal government's powers.⁵

3. *The Constitution is inspired in certain of its principles.* After eliminating the alternatives discussed above, we are justified in accepting this interpretation. It is the one most consistent with scriptural statements on the subject. The Lord has said, for example, that the "law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me."⁶ It is clear in this passage, I think, that what is

⁴G. Homer Durham, *Joseph Smith, Prophet-Statesman* (Salt Lake City: Bookcraft, 1944), p. 162.

⁵*Ibid.*, pp. 129-30, 133-34, 162-63.

⁶D. & C. 98:5.

inspired in the Constitution is the "principle of freedom in maintaining rights and privileges" incorporated in the document. This principle, the Lord tells us, is not for one time and place, but "belongs to all mankind." It is, as he says elsewhere, "for the rights and protection of all flesh," not just for the people of the United States. Constitutional principles are lasting, not temporary; but, on the other hand, the Constitution is to be cherished because it contains principles that protect freedom, and not because every word was given by God.

This reading eliminates some erroneous conceptions about the Constitution and must be grasped before we can proceed further. It points up the exact question we must ask to clarify the proper role of a Latter-day Saint with regard to the Constitution. That question is: What principles in the Constitution are inspired? The answer to this question is a prerequisite for any practical political action. For when we understand true principles, we can recognize where we can safely adjust our views about the Constitution to changing circumstances, and where we must hold firm at all costs.

Doubtless many principles in the Constitution might be pointed to as bulwarks of freedom, and all of these might justifiably be included among the inspired principles. However, there is one that the scriptures and the prophets have repeatedly stressed as being essential to good government. That principle is liberty of conscience. It is significant that the two most important scriptural passages dealing with the Constitution were revealed shortly after the Saints were expelled from Jackson County because of their peculiar religious beliefs. At this time, the Church was particularly sensitive to the privilege of free worship. When the Lord said that the Constitution was justifiable because it protected men in their rights and privileges, the Saints would at once have thought of liberty of conscience. In the declaration of belief regarding government adopted at the general conference of the Church in 1835 this principle was stressed. Section one hundred thirty-four, where the declaration is recorded, states: "We do not believe that human law has right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; that the civil magistrates should restrain crime, but never control conscience; should punish guilt but never suppress

freedom of the soul."⁷ The same idea is repeated throughout the section.

In one of his pronouncements on the Constitution, Joseph expressed a similar belief: "It is one of the first principles of my life, and one that I have cultivated from my childhood, having been taught it by my father, to allow everyone the liberty of conscience. I am the greatest advocate of the Constitution of the United States there is."⁸ Clearly, in Joseph's mind religious liberty and the Constitution were bound inseparably together.

Later in Utah the leaders of the Church consistently made statements in the same vein. Shortly after their arrival in the valley, they were looking forward to the establishment of a new constitution, that given by God for the millennial kingdom to be set up at His second coming. The present Constitution they thought would soon be replaced, yet they declared that the principle of liberty of conscience integral to the Constitution of the United States would be incorporated in the millennial constitution too. That much, at least, was of lasting value.

On this point, the Latter-day Saint position is clear. We are wholly devoted to the protection of men in their right to think and speak freely. But this is merely the beginning. For it is freedom in the fullest possible sense that the Lord recommends in the revelations. After endorsing the Constitution in the Doctrine and Covenants, He says: "It is not right that any man should be in bondage one to another."⁹ Though we may be confused when conflicting ideas are presented to us, there can be no doubt about the paramount value of constitutional government. The first principle is freedom, and that should be our guiding light.

As Latter-day Saints, we should heartily subscribe to those programs and to those views on government which we believe will help remove any of the stultifying restrictions on human life, whether they be economic, social, or political. At the same time, we should be alert to challenge centers of growing power that might in time jeopardize liberty. The application of principles is often discouragingly complex, but at least our belief in the Constitution's inspiration fixes one point—human freedom—by which we can set our political course.

⁷D. & C. 134:4.

⁸Durham, p. 122.

⁹D. & C. 101:79.