The Restoration of Religious Freedom: Joseph Smith's Evolving Understanding of the United States Constitution, 1830-1844

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The Restoration of Religious Freedom: Joseph Smith’s Evolving Understanding of the United States Constitution, 1830-1844

By
Mitch Nelson

Presented to the Graduate Faculty of Claremont Graduate University in partial fulfillment of the requirements for the degree of Master of Arts in Religion.

We certify that we have read this document and approve it as adequate in scope and quality for the degree of Master of Arts.

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ABSTRACT

As the founder of the most persecuted denomination of the nineteenth century in the United States, Joseph Smith desperately yearned for religious freedom. I argue that Joseph Smith understood religious freedom as a theological doctrine given by God to help individuals, communities, and nations discover how to balance order and diversity. Rather than being a product of democratic government, he viewed religious freedom as the necessary foundation for a just government and society. Therefore, maintaining religious freedom would preserve the governing system, not the other way around. For Joseph, religious freedom was incrementally discovered in a process of identity formation that developed over time. I claim that Joseph Smith saw a discrepancy in the actualization of religious freedom in society. He believed religious freedom was experienced as a religious reality, while government leaders and citizens interpreted it as a political right granted by law. Joseph saw the Constitution as the central agent that both created this gap and had the potential to resolve it. On one hand, the Constitution was divinely inspired and implied the equality of religious action. On the other hand, it fell short of guaranteeing the ideals it espoused by not providing an enforcement mechanism. Therefore, I will show in this thesis that Joseph’s understanding of the Constitution and religious freedom changed over time, leading to a shift in strategies to correct them. First, Joseph entirely depended on the Constitution as the arbiter of religious freedom. Then he established a model of the Constitution as a living document that fulfilled its purpose only as it developed and improved over time. Finally, Joseph reframed democracy within a theistic framework to unite all people in the same religio-political cause.
DISCLAIMERS

I have written this thesis from the perspective of a member of The Church of Jesus Christ of Latter-day Saints. I write throughout as if Joseph Smith’s feelings, claims, and ideas given are true. While this does not remove their contestability, it has simplified the writing by being able to avoid phrases such as: he allegedly/supposedly/etc. claimed. Additionally, I refer to Joseph by his first name in honor of the tradition of both modern scholars of Mormonism and the people who knew and loved him. I also use interchangeably the terms saints and Mormons. While the Church of Jesus Christ of Latter-day Saints has recently turned away from the Mormon name, it is historically accurate to refer to the church and its people in the nineteenth century by that term.
INTRODUCTION

Overview and Argument

The Church of Jesus Christ of Latter-day Saints is the only denomination in American history to be forcibly driven out of a state by executive order of a governor.\(^1\) While many have been culturally and legally targeted over time, no other denomination has been violently removed as a whole under government sanction. This fact implies both a history of contact with the government prior to this climactic conflict and a subsequent change in the status of later interactions. Neither Catholic nor Protestant, the Church claimed to be a restoration of the Old Testament government built on the covenant Jehovah made with the House of Israel and the New Testament church established by Jesus Christ with the aim of bringing all people into the presence of God in the highest degree of unity.\(^2\) As the church grew in membership and developed in theology, it quickly became involved with antagonistic neighbors and government leaders from the Jacksonian Protestant majority. Founding prophet Joseph Smith encountered such opposition in the exercise of his religion that he was obliged to engage in legal and political disputes regarding religious freedom in order to accomplish his religious purposes.

I argue that Joseph Smith understood religious freedom as a theological doctrine given by God to help individuals, communities, and nations discover how to balance order and diversity. Religious freedom was much more than a political right to Joseph Smith: it was a foundational principle that gave meaning to government and society. For example, Americans of the early nineteenth century framed religious freedom as a product of democracy that needed to be kept in check. Joseph, on the other hand believed just government was a product of religious freedom.


Therefore, maintaining religious freedom would preserve the governing system, not the other way around. For Joseph, religious freedom was incrementally discovered through suffering persecution, seeking government help, and expounding Constitutional interpretations in a process of identity formation that developed over time.

Theologian Andrew T. Walker argues that religious freedom has been insufficiently examined as a theological principle and that it should be a doctrine, not just a constitutional device. He claims that religious freedom originates as a question of soteriology but is usually answered via political philosophy. I argue that Joseph Smith saw a similar discrepancy in the actualization of religious freedom in society. Joseph believed religious freedom was ultimately about agency and religious experience, while government leaders and citizens saw it as their duty to uphold and preserve democracy by persecuting religious anomalies that threatened its structural integrity. However, I claim that Joseph attributed both the gap between democracy and religious freedom and their potential flourishing to the fundamental structure of the Constitution. On one hand, the Constitution was divinely inspired and implied the equality of religious action. On the other hand, it fell short of guaranteeing the ideals it espoused by not providing an enforcement mechanism. Therefore, I will show in this thesis that Joseph’s understanding of the Constitution and religious freedom changed over time, leading to a shift in strategies meant to restore and unify them in form and function. First, Joseph entirely depended on the Constitution as the arbiter of religious freedom. Then he shifted to establishing a model of the Constitution as a living document that fulfilled its purpose only as it developed and improved over time. Finally, Joseph reframed democracy within a theistic framework to unite all people in the same spiritual cause.

Historiography

Within the first year of establishing the Church of Christ, a portion of its members had migrated to Western Missouri to establish a communal utopia, where the majority population originated from a political, geographical, and ideological demographic that could not have been more different than the saints who moved there. Because the church was still being established and to reduce conflict between opposing groups, the church focused on ecclesiastical organization and religious teaching. For example, from 1828 to the end of 1835, Joseph received one hundred nine revelations, most of which revealed principles of theology or ecclesiastical administration with only two of those making any significant commentary about the Constitution and religious freedom. However, in 1833 persecution mounted and the government failed to protect the saints, resulting in their non-Mormon neighbors driving them out. This initial phase of culturally imposed restrictions on religious freedom led the saints to seek compensation for their lost property and Constitutional rights through legal channels. This focus on recovering the past was actively shaped by a revelation Joseph received that portrayed the Constitution as a divinely inspired document and the foundation of American government. Therefore, the saints wanted to raise religious freedom to the level of the Constitution, emphasizing its past creation as an ideal standard in the present.

Joseph’s theoretical understanding of religious freedom overlaps with religious historian William R. Hutchison’s division of religious pluralism into phases. Hutchison argues that pluralism has been an American ideal from before its founding but did not become a reality until the late twentieth century largely because Americans changed how they defined pluralism over time. I argue similarly that Joseph’s understanding of religious freedom changed over time according to how the government responded to the saints’ persecution. Joseph’s initial belief that
constitutional religious rights would be universally granted in themselves quickly came up against opposition by the state, necessitating a new understanding of their origins through revelation. Hutchison argues that pluralism, even today, remains a work in progress. He described the first stage of pluralism as the legal or social toleration of deviant groups, which he asserts could mean the mere absence of persecution. However, the case of the Latter-day Saints shows that they were not even granted this minimal degree of pluralist acceptance despite multiple attempts to claim it through legal channels. Hutchison also argues that Americans felt much more threatened by non-Protestant religious behavior than by religious belief. Although Hutchison did not address any religions in particular, this assertion partially explains why the saints were not given space in a pluralistic society.

In contrast to Joseph’s many revelations in the church’s earliest years, Joseph received only twenty-four revelations concerning the church from 1836 to 1844. During this time, he also more publicly theorized about the principles of freedom that upheld the Constitution and took part in political conversations about religion. Historians of the church history department of the Church of Jesus Christ of Latter-day Saints have claimed that after 1835 Joseph received far fewer revelations because church leaders were expected to administer the church according to the principles contained therein. I argue further however, that one reason Joseph received fewer revelations from the lead up to war with Missouri and later, was because the saints had experienced the loss of their Constitutional religious rights at the hands of a democratic government, which demanded a reevaluation of the Constitutional system.

After being forcibly removed from the state of Missouri by order of the governor, Joseph realized that despite God’s hand in establishing the Constitution for the freedom of all people, it

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was unable to enforce that freedom. Because of this government abuse, Joseph shifted toward independently securing religious freedom for his people. The weakness of the Constitution was its static and inactive state, thereby calling for a renewal of religious freedom through an expansion of the Constitution’s structural footprint. Joseph created a paradigm shift in the saints’ configuration of local government through the blending of religious and political administration. Establishing Nauvoo essentially from scratch gave them the ability to design the city government according to the principles of freedom as they understood them.

Hutchison’s notion of expanding pluralisms again helps us understand Joseph’s evolutionary model of religious freedom. He describes how America was touted as the most diverse and pluralist society on earth in the nineteenth century, but while American society claimed to be inclusive (stage two pluralism) culturally and legally, in practice they were only tolerant (stage one pluralism). However, Mormons were among several religious groups in America that were not even tolerated. Therefore, Joseph proposed more advanced stages of religious pluralism in his later statutes, appeals, and platforms. For example, in Nauvoo the saints made religious pluralism a legal reality in the municipal statute books and later suggested innovative restructuring of the city’s hierarchical jurisdiction to provide future protection of their constitutional religious rights.

Joseph never outlined specific phases or steps to achieving religious freedom like Hutchison did with pluralism; however, I argue that Joseph’s conception of and advocacy for religious freedom can be described as a process with definite shifts over time that included its own formulation of pluralism. Joseph’s theology of plurality and progression influenced his imagining religious freedom as less of a singular reality and concept than an evolving and aggregating process that could be realized in various ways according to one’s circumstances.
Scholars have argued similarly that religious freedom is an enigmatic aspiration that is complex to understand and define. Religion and freedom have come to be understood as residing in separate realms of church and state, creating a false assumption that each must be interpreted in isolation of the other.

It is this traditional separation and modularity of American institutions that modern scholars identify as inherently incompatible with “religious freedom.” David Sehat argues that religious freedom is a myth that only exists as an aspirational ideal. He focuses on the rise of Evangelical Protestantism as the moral establishment in the middle of the nineteenth century that held considerable cultural and political power in defining religion. Finbarr Curtis similarly claims that religious freedom does not exist as a single, coherent concept. He gives various examples of how different people have prescribed different meanings of religious freedom over time to show that people wield religious freedom to exclude certain populations from political and economic power. The malleability of religious freedom in public discourse renders it meaningless as a practical reality. Going beyond both Sehat and Curtis, Winnifred Sullivan asserts that religious freedom is impossible to enforce in a society where rights granted by law are defined according to one’s religious beliefs or practices. In this social structure, the nature of religion and law are contradictory and cannot coexist.

While each of these scholars make unique arguments, together they map out the general idea of religious freedom in American society. From the image they help to clarify, we can get a better sense of what Joseph Smith was trying to do according to his own vision of religious freedom.

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freedom. First, antebellum Americans inherited a Protestant bias of the world that separated different modes of knowledge and experience. For example, the establishment clause of the first amendment proposed a separation between government and religion because European history had taught them that state-sponsored religion created conflict. By the 1840s, American society generally took for granted that religion was a separate realm from law and that they should not mix. Next, the Second Great Awakening created religious diversity that both emphasized the importance of religion in society and obliged institutions to find just ways of regulating religious expression. This leads us to the free exercise clause of the first amendment wherein religious action could not be denied to an individual or group. However, because what counted as religion was contested, there was no consistent mechanism of enforcement satisfactory to all. Finally, the lack of consensus among the citizenry regarding the proper relationship between church and state forced the decision-making on the government, making matters of religious concern subservient to political priorities.

Each of these premises were of concern to Joseph Smith, who, as a primarily religious actor, naturally merged various areas of human experience to create meaning without trying to distinguish one purposeful pursuit from another. For example, while state and federal politicians refused to take action to protect the saints from persecution, Joseph administered the municipal government of Nauvoo, Illinois with a mix of ecclesiastical and legal authority. He did not see this as a contradiction because to him, the nation was founded on religious principles. Indeed, he even believed that God instituted government. In a revelation given September 1830, the Lord told Joseph that all things were spiritual unto him, making a distinction between church and state not only improper, but impossible. Because of this perspective, Joseph used every legal, cultural, and political tool at his disposal to seek equality of religious exercise. Since he ultimately was
concerned with matters of salvation, his views regarding the Constitution and religious freedom were imbued with religious notions of millennial peace and eternal progression.
CHAPTER 1- Scripturalizing the Constitution

Introduction

The saints’ belief in the inspired nature of the United States Constitution informed their actions to work within the systems and mechanisms of democratic government in seeking equal privileges for religious worship. I argue that from 1831 to 1838, the saints increasingly sought the power of state and federal government to defend their religious freedom from unlawful vigilantism because they ascribed scriptural status to the Constitution, particularly when it came to the religion clauses of the first amendment. I claim that religious freedom was a theological doctrine at its core for the saints, and for them, constitutional laws protecting universal freedom of religious belief and practice made it enforceable in the realm of government. Because of this, religious freedom was the temporal application of the spiritual cause of Zion, which was to build a millenarian society of harmony, freedom, and peace. Thus, the government served the purposes of God and the people, and religious freedom was a divine principle necessary for the existence of a just and effective government. The purpose of this chapter is to show how members of the Church of Christ (popularly known as Mormons and internally as saints) pursued religious freedom from all levels of American government between 1831 and 1838 as a fulfillment of scripture.

Historical Background

In December 1830, just eight months after the organization of the church, Joseph Smith revealed that church members had been commanded by God to collectively move to Ohio. The saints settled in Kirtland and established the city as the headquarters of the church. Then in June

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1831, Joseph and other Elders were instructed to travel to Missouri, where the next church conference was to be held and the land would be consecrated unto them as an inheritance. Soon after arriving, it was revealed that Independence, Missouri was the land of Zion, to be built up as a sacred religious refuge in preparation for Jesus’ imminent return and subsequent millennial reign. By summer 1833, the church had purchased over two thousand four hundred acres of land in Jackson County, Missouri and around one thousand two hundred saints had migrated there. This created a second gathering place wherein the saints were enabled to grow institutionally and numerically as well as develop theologically.

Conflict in Jackson County

While in Independence, Joseph had tasked Edward Partridge, the church’s first ordained Bishop, with the responsibility of administering the migration, management, and distribution of land for the saints in Zion. As they discussed the logistics of this endeavor, a disagreement broke out between them, in which Partridge expressed that the spot of land chosen as the center place of Zion was not as good as others in the surrounding area. Joseph responded by prophesying that it would become the promised Zion. On 1 August 1831, following this incident, Joseph recorded a revelation clearly laying out the Elders’ instructions for building Zion. They were to move their families to Independence, buy as much land as possible, and focus on the prophesied glorious destiny of the land, rather than its current undeveloped and unsatisfactory condition.

Additionally, the revelation gave counsel to leaders of the church in Jackson County that both

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rebuked their complaints and criticisms and seemed to foreshadow the challenges that would befall them.

After promising them blessings for enduring trials, the revelation encouraged the saints to prepare for the millennial reign of Jesus Christ by gathering to Zion and by obeying the laws of the land. The Lord reminded them that he was their ruler and judge and that the laws of the land and the laws of God were in harmony with each other declaring “let no man break the laws of the land for he that keepeth the laws of God hath no need to break the laws of the land[.]” For this reason, he commanded them to be subject to the powers that be until God would come and literally reign over all.12 This revelation gave perhaps the first explicit counsel concerning the laws of the land. Several earlier revelations had commanded the saints to obey the laws of God, and the church was organized according to the legal requirements for establishing a church, but now the saints were specifically told to be subject to the civil law and those who held legal authority over them. Coming as a revelation from God, this instruction gave the saints a religious motivation for obeying the law as well as a theological tenet prescribing social behavior. The rule of law, in addition to being a doctrine of democracy, became, to the saints, a spiritual teaching. Contrary to religion and law being in conflict, this revelation established the relationship between the laws of God and the laws of man as not incompatible.

However, despite the saints’ efforts to obey the civil laws of the land, their aggregation in Jackson County threatened the social laws of Jacksonian culture. The saints were mostly from the northeastern United States, against slavery, and profoundly religious. However, the non-Mormon residents of Jackson County were mostly from southern states, held slaves, and were a

rough group of non-religious people. These stark social, religious, and political differences between Mormons and non-Mormons in Missouri created tensions that led to violent conflicts between them, leading the saints to seek for legal protection under the Constitution of the United States and the laws of the land. Additionally, antebellum America was experiencing a rise in group vigilante violence generally and held individualism as the highest of democratic virtues, while the Mormons sought to peacefully obey the law and live communally in Zion.

While the majority of the saints were to remain in Kirtland, Joseph did assign many to settle in Independence. As the work of restoring truths of the gospel that had been lost or unknown progressed in Kirtland, Joseph counseled with the saints at a conference to discuss publishing the revelations. It was decided that they were to compile them in a volume called the Book of Commandments. Joseph assigned church convert and newspaper editor William Wines Phelps to take charge of the printing and take his family there and set up a printing establishment to publish the revelations as well as start a newspaper which he called *The Evening and the Morning Star.*

Despite laying out the process of who was authorized to go to Zion and how, Mormon excitement for establishing Zion led many to imprudently move there in haste, outrunning the church’s resources to care for them. Not only did saints flock to Jackson County, but Joseph and his associates designed plans to build a city there that would be religious in totality. In contrast, non-Mormons watching this drastic influx of religious zealots were reminded why antebellum America was organized with a Protestant structure that separated religion from other elements of

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experience; not only because they were rapidly diminishing in influence relative to population, but they were also losing their power to a budding religious empire with increasing political and economic strength. These converging circumstances alarmed non-Mormon residents, heightening their awareness of the saints’ actions as they continually poured into the city and county.

**Mormon Expulsion from Jackson County**

Adding to the migration situation and heightening the fears and threatened feelings of Jackson County residents, Phelps published an article in *The Evening and Morning Star* called “Free People of Color” on 16 July 1833. “To prevent any misunderstanding among the churches abroad, respecting free people of color, who may think of coming to the western boundaries of Missouri, as members of the church,” the editorial published Missouri’s laws regarding black settlers. The law stated that they could be apprehended, imprisoned, and whipped unless they could provide documented proof of citizenship or they were removed from the state. Thus, Phelps cautioned them to use prudence in coming to Zion.15

However, Jackson County residents interpreted the article as a call for black people to migrate to the area. Despite Phelps’s response in an Extra that his intent was in fact to dissuade free black Mormons from coming to Zion, non-Mormon Jackson County residents gathered in protest on July 23rd to stop the Mormon problem from getting out of hand. They created a Memorandum of Agreement in which they obligated the saints to leave the county beginning January 1834. In contrast to the saints, who felt the divine command to obey the laws of the land, Jackson County residents explicitly stated their efforts to remove the saints from the county were outside the law.

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intending to rid ourselves as we do peacefly if we can and forcibly if we must, and believing as we do, that the arm of civil law does not afford us a guarantee or at least a sufficient one, against the evils which are now inflicted upon us, and seem to be increasing by th[e] said religious sect deem it expedient, and of the highest importance to form ourselves into a company, for the better and easier accomplishment of our purpose which we deem almost superfluous to say is Justified as well by the law of nature, as by the law of self preservation.16

The language of the Missourians’ memorandum, unlike the language of the revelation to the saints, pits the laws of man against the laws of nature. Yet, the Missourians justified ridding themselves of the Mormons by showing their perceived loyalty to American virtues, appealing to natural law and acting out of self-defense. However, the saints would use this admission of the Missourians’ extralegal force against them in their many petitions to local, state, and federal officials of government as a foil to their own perceived loyal obedience and submission to a higher law. Nevertheless, in the meantime, the saints felt the same weakness of the civil law to guarantee the protection of their interests as the Jackson Countians did, leaving them without legal support in the face of an angry mob.

The real problem that non-Mormons in Jackson County had with the Mormons, despite fears of losing cultural and political power, was their religion. Historian Adam Jortner argued that Jackson County residents justified violence against Mormons by making their citizenship contingent on religion. Since their religion was not familiar to the forms and purposes of “American” religion, the Mormons did not qualify as citizens.17 Jortner argues further that merely denying the saints’ theological claims did not lead to violence, but using their religious beliefs to frame them as superstitious others turned the religious question into one of democracy. If Mormons, who were non-citizens by virtue of their non-Protestant beliefs, gained political

power and started dictating the law to citizens, then democracy itself was at stake.\textsuperscript{18} This reasoning directly ran against the logic of the Mormons, who claimed that their Jackson County neighbors had violated Constitutional law and denied them legal rights as citizens. However, non-Mormon identification of Mormon actions as religiously motivated adds support to the claim that the saints believed their perceived obedience to law was in accordance with divine command.

The disputing claims of each party pivoted on emphasizing the letter of the law (Mormons) vs. the spirit of the law (Gentiles); and in Jacksonian America, with increasing acceptance of vigilant action as a legitimate alternative to rule of law in expedient circumstances, and a predominantly localist ideology, Jackson County residents justified removing twelve hundred of their neighbors in November 1833. With no time to wait for a response from church headquarters in Kirtland, Ohio, Mormon leaders in Missouri reluctantly agreed to leave out of obligation.

\textbf{The Scriptural Constitution}

In the month following the confrontation with Jackson County residents, the saints corresponded with church leaders in Kirtland, Ohio telling them of their desperate circumstances. William W. Phelps wrote a letter to church leaders in Kirtland asking for advice on what to do in their impossible situation. Three days before receiving the letter, the First Presidency of the church had received a revelation giving the Missouri saints counsel. With increasing tension in Kirtland, as well as in Independence, the prophet instructed the saints to do what they could to patiently bear their trials, “renounce war and proclaim peace,” forgive their aggressors, and obey the law. The revelation explained how the saints should respond both to the laws of man and to

\textsuperscript{18}Jortner,\textit{ No Place for Saints}, 149.
persecution. Counsel on the latter taught them the Lord’s law of peace, mandating they forgive an offender for violent acts against them until the fourth offense, after which they would be justified in going out to battle against that people. Guidance with respect to the law would come to define the saints’ early thinking on the Constitution.

...I say unto you concerning the Laws of the land it is my will that my people should observe to do all things whatsoever I command them and that Law of the land which is constitutional suporting the principles of freedom in maintaining rights and privealiges belonging to all mankind is justyfiable before me therefore I the [Lord] justify you and your Brotheren of my Chirch in befriending that Law which [is] the constitutoonal Law of the land 19

This revelation goes further than saying that the laws of God and the laws of man are not incompatible. Now the saints are commanded to obey God and the Constitution. This language expresses the idea that the Lord would justify the saints in befriending the Constitution, even putting the Constitution on par with the commandments. Justification, as a legal term itself, implied that the Constitution, as a support to the principles of freedom, was sufficient in maintaining rights. Joseph and the saints were to place their trust in the law of the land as if it were religious dogma. Thus, the Mormons sought legal protection for their religious and civil rights even as they established church structures and religious doctrine. Their respect for the law was profound. While non-Mormon residents of Jackson County had acted beyond the extent of the law, the saints pursued those means that were legal to their limits. In subsequent correspondence with the prophet and his counselors, Missouri saints were urged not to sell their land in Jackson County. Joseph was adamant about this, expressing in a letter that it was God’s will that not one foot of land be sold to their enemies. He then told the saints to make it look like

they were preparing to leave until the Lord delivered them. Joseph explained that this was crucial because it would be nearly impossible to reobtain land given to those who oppose them.²⁰

Joseph also counseled the saints to build a temple, rebuild the printing office that was destroyed, and hire legal counsel to help them defend their rights in court and further entrench their presence in Zion.²¹ These actions were in direct opposition to their aggressors’ demands to leave, showing instead an intent to not only remain in the county, but to strengthen their attachment to it. Petitioning Missouri Governor Daniel Dunklin for military support, the saints also hired the services of Alexander Doniphan, Amos Rees, William Thomas Wood, and David R. Atchison in late October to represent them in court for the abuses and persecutions heaped upon them. Once Jackson County residents found out the saints’ intent to renege on their agreement to leave, tensions increased, and in November they were forcibly driven out of the county despite their attempts to publicize the violence against them.

While the published accounts of the saints’ persecution were intended to garner compassion for their situation, some heard of their defiance against their treaty to leave and praised the actions of those in the mob. While residents of Jackson County viewed their Memorandum as an authoritative and binding document, thus making Mormons in breach of contract, the saints believed their agreement to leave out of expediency was inherently beyond the legitimacy of law, and therefore to act against what they had previously agreed could not be a violation of law. From their perspective, they acted according to Constitutional laws justifying the protection of their religious rights. These efforts to retain their lands through the legal system

manifested their devotion to the Constitution and the divine mandate to befriend the law of the
land. In a letter to church leaders in Missouri dated 5 December 1833, Joseph wrote “it is your
privilege to use every lawful means in your power to seek redress for your grievances of your
enemies and prosecute them to the extent of the Law.”

In the 5 December letter above, Joseph counseled the saints not to sell their land in Zion.
William W. Phelps, meanwhile, wrote the Governor of Missouri asking for military protection.
The Governor declined having the authority to do so but expressed his willingness to restore the
Mormons to their land. Joseph continued to express confidence that Zion would be redeemed
despite not having a plan as to how or when. Eleven days after sending his last instruction to
the saints, Joseph received another revelation confirming and advancing the favored status of the
Constitution.

On 16-17 December 1833, the Lord revealed to Joseph certain principles
regarding the purposes of the Constitution. Stated in the revelation was the idea that the Lord had
raised up the framers of the Constitution for the very purpose of ensuring freedom from bondage
for all men. Earlier in the revelation, the Lord told the saints to continue to seek for redress from
those granted authority by the Constitution, which God had established for the rights and
protection of all flesh according to just and holy principles.

This idea of a divinely inspired Constitution encouraged the saints to draw on its legal
and rhetorical power to strengthen their pleas for protection of their rights and compensation for
their lost and destroyed property. God’s explicit endorsement of the nation’s governing

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23David W. Grua. “Waiting for the Word of the Lord,” in Revelations in Context: The Stories Behind the
Sections of the Doctrine and Covenants. (Utah: The Church of Jesus Christ of Latter-day Saints, 2016), 196-200.
25"Revelation, 16–17 December 1833 [D&C 101]," p. 81, The Joseph Smith Papers, accessed 3 Apr. 2023,
document raised the Constitution to the level of scripture in the eyes of the saints. This theological paradigm through which to view the legally recognized charter of the rights of citizens encouraged the saints to appeal to politicians and Americans in general as well as strengthen their trust in its power to redeem Zion. However, even as the saints reasoned with government leaders to restore their rights in terms of the Constitution, they would come to realize that the Lord’s justification of the Constitution did not guarantee its just application. Therefore, the saints would eventually seek for a better way.

Historian Mark Ashurst-McGee claims in his dissertation that the most important change in Joseph’s political thought came after the saints were driven from Jackson County, Missouri. Until that point, the Mormons in Zion isolated themselves geographically, socially, economically, and religiously from their fellow inhabitants of Jackson County in order to focus on creating a religious society. After being forced out of the county, the saints began to engage with American society and the government in the hopes of maintaining American aspirations of the free exercise of religion. After this point, the Mormon strategy of Zion nationalism shifted to American pluralism.26 While I agree with Ashurst-McGee’s general argument, I tend to place it several years later after the Mormons are driven from the state of Missouri. I will argue in chapter two that Joseph’s most significant shift in political theory and strategy came as a direct result of the extermination order issued by Missouri Governor Lilburn W. Boggs in November 1838 and his imprisonment of Joseph Smith and other leaders of the church in the Clay County Jail. Additionally, I have shown thus far that while the saints socially set themselves apart from their neighbors between 1831 and 1833, they had been engaging legally with various government institutions prior to their being driven out of Jackson County.

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Ashurst-McGee argues further that the 16-17 December 1833 revelation connected the Constitution to the redemption of Zion, thus initiating Joseph’s emphasis on engaging with the government to protect and support the religious freedom of an oppressed people. The Constitution’s inspired origins were evidence of God’s favor for the United States where freedom could prevail and protection from legal oppression would be possible. Zion was possible because of America. Even though I place Joseph’s most significant shift in strategy after his release from Liberty Jail in Spring 1839, I agree with Ashurst-McGee’s claim that a significant development in Mormon Constitutional theory occurred after the saints were driven out of Jackson County. I argue that the prophet’s December 1833 revelation was both a continuation of the saints’ earlier conception of the Constitution as compatible with and friendly to the theological ends of Zion that supported religious purposes and a powerful transition that changed their perception of the Constitution to a distinctly theological document coequal with other Latter-day Saint scripture. To understand this claim we need to analyze the timing and content of this revelation, which help explain why it evolved the saints’ constitutional worldview.

The Scriptural Constitution and the Redemption of Zion

While previous revelations had demonstrated God’s endorsement of the Constitution and laws of the land, the revelation of December 1833 came after the most widespread and violent persecution to that point, which complicated the practicality of lawful defense of religious rights. Additionally, the saints had waited several weeks for guidance on how to respond to these traumatic events. The loss of Zion, as well as the loss of homes, property, and immediate direction necessitated additional vision for finding meaning in the chaos of displacement. In answer to these emotional circumstances, God spoke about the purposes of the Constitution. That God raised up the constitution’s framers for the precise purpose of creating the Constitution
shows his centuries-long intervention in the history of mankind for the establishment of universal freedom. The saints were no longer merely justified in befriending the Constitution. They were specifically commanded to make it the keystone of their case for religious freedom. Just as the Book of Mormon was central to the church’s theological claims functioning as the distinctive scripture of the Mormons, the Constitution became central to the saints’ legal and political claims functioning as a divinely designated application of the laws of God.

The December 1833 revelation’s prescriptions of Mormon operations were eventually added upon, but never abandoned. In Jackson County, mobbers had tarred and feathered two church members, destroyed the saints’ printing press, and illegally confiscated the Mormons’ weapons before forcibly removing them from the county in November 1833. In the immediate circumstances of being violently forced out of the county in the name of democracy, Jacksonites deprived the Mormons of their democratic rights. The December 1833 Revelation explained that they were cast out of Jackson County because of wickedness, that they should appeal to all levels of government for redress, and that Zion would eventually be redeemed by power. Joseph had told the saints in Missouri to buy land in Clay County, but not to sell their land in Jackson County, for Zion would not be moved out of her place. He encouraged the saints to do what they could to maintain their lands and seek protection through the courts, the governor, and the president of the United States. Richard Bushman explains in his biography of the prophet that this revelation, coming in response to the persecution in Missouri, dramatically changed Joseph’s political engagement. He argues that telling the story of the Mormons as one of repeated

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28 Bushman, Rough Stone Rolling, 230.
persecutions, rather than one of continuing revelations served strategic ends. Through a narrative of suffering, the saints could appeal to the sympathy and support of non-Mormons without trying to convert them, making the saints’ plight an experience with the potential to unite with their neighbors regardless of theological difference.²⁹

The comments on the Constitution in the revelation of December 1833 lend additional understanding to how the saints were to interact with the laws of the land. The revelation related a parable about a nobleman who commissioned his servants to plant a vineyard and build a tower in the middle of it so a watchman could stand upon it and warn of coming danger. But the servants reasoned among themselves saying there was no need to do so much work for a structure that the nobleman surely did not need. So, after refusing to build it, the enemy came and destroyed the vineyard because there was no protection from a watchman on the tower. After this parable come the central claims about the Constitution.

Speaking to the scattered saints, the Lord explains that they should “importune for redress and redemption” to those given legal and constitutional authority to rule, because God has allowed the Constitution to be established and “maintained for the rights and protection of all flesh.” The Constitution was created so that men could freely choose for themselves and be accountable for their own actions. Thus, it was wrong for men to be in bondage to others. America was chosen to be a land of freedom to preserve that agency which the Constitution protects.³⁰ Coming as a revelation through a prophet, as well as for the religious themes expressed side by side with principles of government, places the Constitution on par with

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²⁹Bushman, Rough Stone Rolling, 226-227.
scripture for its ultimate benefit to people now and in the afterlife. Both currently and in the future, the Constitution would protect freedom if supported by the people.

These statements about the inspired Constitution and the saints’ need to work within the laws of the land imply that the Constitution was supposed to function like a watchman on the tower, warning the people of and preventing against attacks on their rights and freedom. Only with the support of the laborers in the vineyard could the watchman stand on a tower to warn of danger. Likewise, the Constitution could only fulfill its purposes of maintaining the rights and protection of all flesh and preventing that man should be in bondage one to another if it was upheld and supported by the people. Thus, the saints took it upon themselves to do everything in their power to support, defend, advocate, and otherwise build up the Constitution, founded as it was, on just and holy principles.

After declaring the inspired purposes of the Constitution, the revelation related the parable of the unjust judge from Luke 18. The saints were likened unto a woman pleading to an unjust judge. The judge only decides to grant the woman’s request because she was unrelenting in her petitions. The saints were supposed to apply this counsel through seeking legal redress from local, state, and federal government officials until they yielded to their pleas for redress, compensation, and help even if out of sheer annoyance for their unyielding pleas. Juxtaposing the purposes of the Constitution with a New Testament parable further signifies the scriptural status, if not the character, of the Constitution in securing the saints the unprejudiced freedom of worship. Together with other early communications, this revelation acknowledged the national charter as a friend of liberty, emphasizing the sufficiency of the American system of government. This encouraged the saints to utilize the full extent of the law to their benefit. They hoped their

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repeated petitions for recompense and redemption would result in their restoration and the
triumph of the law. However, given that many government leaders were corrupt and unjust, the
Mormons took heart in the promise that if they didn’t respond, then God himself would intervene
and vex the nation.\(^{32}\)

These revelations set the pattern for the saints’ engagement with the government until
they were exterminated from the state of Missouri in 1838. Even after settling in Nauvoo, the
saints never ceased to call on the powers that be for protection, compensation, and redress. The
saints never abandoned the principles of befriending the Constitution and appealing to the
government even as they began to the take the offensive in obtaining political power so they
could implement their understanding of the Constitution. While the saints had made previous
attempts for legal protection at the county, state, and federal level, the revelations of August and
December 1833 officially dictated church doctrine and policy as well as outlined legal reasoning
and theory for the saints. From January 1834 onward, the saints implemented the instruction
from these revelations and made every effort to restore their legal ownership and possession of
land, compensation for lost property, and the redemption of Zion through local courts and legal
counsel, correspondence with the Governor, petitions, letters to the saints, and newspaper
publishing for members and non-members.

**Strategizing Religious and Civil Law**

Soon after the saints’ expulsion from Jackson County, the First Presidency (the highest
governing body of the church consisting of the church president [Joseph Smith] and two
counselors) responded to a letter from William W. Phelps and other displaced leaders in

\(^{32}\)"Revelation, 16–17 December 1833 [D&C 101]," p. 82, The Joseph Smith Papers, accessed 19 Apr. 2023,
Missouri who asked what they should do until Zion was redeemed. Joseph referred to the previous month’s revelation saying, “we will act the part of the poor widow to perfection if possible.” In April of that year the saints petitioned President Andrew Jackson for federal intervention in the violent persecution against them by the state of Missouri. Specifically, the saints requested a military escort back to their homes in Jackson County. However, a reply from U.S. Secretary of War, Lewis Cass, on behalf of the President, told them that unless a state Governor requested military intervention from the Federal Government, the President did not have authority to use military force to uphold state laws. Additionally, Missouri Governor Daniel Dunklin wrote Phelps and other church leaders in Missouri reflecting that “the laws, both civil and Military, seem deficient in affording your society proper protection.” The saints, however aware of the government’s silence toward their suffering and the law’s failure to provide the protection they requested, still may not have consciously considered at this point that the laws were much more complex than manifestations of Godly will. Their strong belief in the inspired origins of the Constitution likely framed their perspective of the laws in general, even if their experience defending them had produced little fruit.

Like the unjust judge in the parable, the President and the Governor had declined the saints’ requests; but the saints, like the widow in the parable, did not give up. The church’s next

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efforts to defend their freedom of religious exercise took the form of literal, physical defense. In addition to importuning the government for a redress of grievances, the Lord commanded the saints to prepare for Zion’s redemption. Joseph counseled the brethren of the church, and several women and children would ultimately take part, to come together as a united force to redeem Zion by power. This would consist of several hundred volunteers to march to Jackson County, where they would meet up with a branch of the state militia commissioned by Governor Dunklin to escort them to their homes. “Zion’s Camp” would then remain in Jackson County to protect the saints there from attack and help them plant crops. In the meantime, saints were to go to Missouri and increase their numbers to strengthen the church against their opposers. Ultimately, the incursion failed in its outward objective because not enough men volunteered, and the Governor sought to pursue negotiations between Mormons and Jackson County residents before sending troops.

These circumstances also compelled those on the march to modify their purposes, resulting in a delay of Zion’s redemption and a major focus on preparation. Joseph created most of the church’s governing and ecclesiastical structure at this time, established two schools for the Elders, organized the united firm, opened printing presses for publishing revelations and a history of the church, and prepared to receive an endowment of power by building a temple in Kirtland. These internal projects within the church contributed to the saints’ outward purpose of befriending the law of the land for the freedom of religious exercise. Not only did they exhaust their legal resources, but they greatly expanded their theological, ecclesiastical, and economic focus on Zion.36 Thus, while Zion’s Camp technically failed, its purpose was served in the

preparation and training it bestowed on its participating members for what would be the more important aspect of the restoration and the fight for religious freedom. Nevertheless, another unmistakable lesson of Zion’s Camp, as Adam Jortner argues, was that “the inaction of the government meant that [Jackson County mob members] got their way and were allowed the privilege to choose who their neighbors would be at the point of a gun. That was Jacksonian democracy.”

Publicizing Constitutional Doctrine

After Zion’s Camp disbanded and returned to Kirtland, Ohio, the saints quietly shifted their focus to internal affairs. In the months immediately following their quasi-military campaign, Joseph greatly expanded the church’s ecclesiastical structure, organizing the highest governing bodies of the church including the quorum of the twelve apostles, quorums of seventy, and the high council. In this endeavor, he drew on the participants of Zion’s Camp to fill these priestly roles. The entire Quorum of the Twelve was sent on a mission to the eastern United States and many of the Elders, after participating in the School of the Elders, also went out to proclaim the gospel. Additionally, Mormons focused on building a temple in Kirtland, where they anticipated receiving an endowment of power in preparation for the redemption of Zion. In response to non-Mormons’ misunderstanding of the church’s stance on slavery that stemmed from William W. Phelps’s statement in *The Evening and the Morning Star* that set in motion the Jackson County hostilities, the saints published two newspapers to clarify their opposition to the abolition of slavery and to improve political relations with Democrats and pro-slavery citizens in

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38 The twelve and the seventy were biblical groups of men given authority to administer in the church, proclaim the gospel, and perform miracles in the Old and New Testaments. See Exodus 24:1, 9; Numbers 11:16; Ezekiel 8:11; Matthew 10:1-15; Luke 6: 12-17; Luke 10:1, 17. Joseph Smith restored these priesthood offices, democratically expanding the priesthood to lay members. The high council was a regional/local body of priesthood administration without a biblical analog, but similar in function to the ecclesiastical roles of the twelve.
The church combined their efforts in these ways to repair their reputation and explain their pro-American and pro-government beliefs. Having made plans to return to Missouri in 1836, the saints gathered at a general assembly of the church in August 1835 to formally state their position regarding preaching the gospel to slaves and to show their adherence to American government.

On this occasion, each of the priesthood quorums and the body of the church came to approve the revelations being published. A committee had been commissioned the year before to gather the existing revelations and lectures from the school of the prophets to be included in the book. The purpose of the general assembly was to endorse the collected documents as the doctrine and covenants of the church. William W. Phelps then read a statement on marriage to be included, and Oliver Cowdery read a declaration on government and laws in general, also to be included. The earliest extant version of the latter exists as canon in the 1835 Doctrine and Covenants. The statement declared their beliefs regarding governments and law.

The document, later approved and endorsed by Joseph Smith who was absent at the time of the General Assembly on church business, laid out twelve principles addressing the role of government in protecting the free exercise of religion which the local, state, and national governments had failed to do. The saints used the declaration to showcase their religion as an expression of free speech, and an indictment of government leaders. The document stated the saints’ commitment to the rule of law and to the separation of church and state, which, despite mixing religion and law in previous revelations that raised the Constitution to scriptural status,

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they did not consider religious doctrine in legal questions. Thus, they could honestly claim they believed in the separation of church and state since the understood meaning of that was rejecting an establishment of state sponsored religion and providing churches the space to operate without government interference. These declarations placed the saints on par with American society at large both to garner sympathy and respectability.

The document begins by stating its purpose, which is to set the record straight about the saints’ beliefs on laws and government. It then unequivocally states that God ordained government for the benefit of man. It claims that God has also ordained religion and that each has its separate sphere, and that government has no business dictating what and how people can worship unless it infringes on the rights of others. Nevertheless, Mormons obviously had no qualms about God dictating law that was binding on both religion and society, for several earlier revelations, as well as this canonized declaration placed philosophies of government in the realm of scriptural jurisdiction. The next verses clearly manifest a respect for the law and those in positions of power, declaring that each should be obeyed. Then in verse/article seven at the center of the declaration, the core of the message is conveyed:

We believe that Rulers, States and Governments have a right, and are bound to enact laws for the protection of all citizens in the free exercise of their religious belief; but we do not believe that they have a right, in justice, to deprive citizens of this privilege, or proscribe them in their opinions, so long as a regard and reverence is shown to the laws, and such religious opinions do not justify sedition nor conspiracy.41

In other words, what had happened to the saints in Jackson County was illegal and inimical to religious freedom, which was the very purpose for which government was instituted. This clause revealed the saints’ belief that religion was more fundamental than government and that governments were obligated to protect the free exercise of religion. Thus, by persecuting the

saints without reconciliation, the American government had failed to live up to its purpose. That is, God instituted government to serve religious ends. Therefore, the scriptural status of the Constitution as declared by God to Joseph Smith, and all other previous revelations touching on the laws of the land were given with the intent of fulfilling the ultimate destiny of the church and the gospel. Zion was that purpose: creating a Godly society where harmony, peace, and freedom would reign in preparation for the second coming of Jesus Christ.

**Anti-Mormonism after Jackson County**

In addition to a significant restructuring of church ecclesiology, 1835 marked another transition in the church in Constitutional theory. The events of Zion’s Camp necessitated a stronger institutional order within the church. The complex organization of governing bodies and the network of authorities that Joseph initiated in this relatively peaceful period strengthened the church’s sense of order and prepared them against future threats. We can see from the ways Joseph organized the church how he was both shaped by the democratic environment of antebellum America and how he modified democratic principles to fit larger religious purposes. This stems from his dualistic understanding of democracy’s place in creating a society built on freedom and equality. Kenneth Winn has argued that anti-Mormon persecution became more violent and political after 1835. Indeed, even in the expulsion from Jackson County in 1833, we can see the seeds of this politicization. While persecution against the Mormons in Jackson County was largely motivated by religious prejudice, anti-Mormon persecutors characterized Mormonism as a perversion of religion that threatened the well-being of democracy. This is how they could justify driving out the Mormons not only as a necessary evil, but a virtuous good.
They were protecting democracy by forcing out a fanatical group of subaltern citizens that did not deserve the rights of citizenship.\footnote{This is the concluding argument Adam Jortner makes in \textit{No Place for Saints}.}

Spencer Fluhman argues similarly that we learn a lot about how nineteenth century Americans defined religion from those who persecuted unpopular religious minorities, particularly Mormonism. He describes three phases of anti-Mormonism that correspond with the shifting perceptions of the church. Initially, detractors criticized Joseph Smith as an imposter who sought for power in deceiving his followers. Thus, Mormonism was portrayed as fake religion. When converts continued to join the Mormon church in droves, those arguments could not hold up. It was during this period that Fluhman introduced Mormonism as foreign religion. Moving from a social critique to a political one, Mormons were portrayed as un-American, anti-republican, threatening to democracy, and politically deviant to justify violence against them.\footnote{Spencer Fluhman. \textit{A Peculiar People: Anti-Mormonism and the Making of Religion in 19th Century America}. (Chapel Hill: University of North Carolina Press, 2012).}

More recently, Adam Jortner has reasoned, and I have shown above, that by characterizing Mormons as non-citizens, various county residents and Missouri state officeholders felt that their organized efforts to push the saints out of their society was not only justified, but a heroic act of democratic salvation. Anti-Mormons rhetorically ostracized the saints as servants of a despotic leader, transforming their religious claims and church structures into political conspiracies to overthrow American government and values to those who opposed their presence in Zion. Despite the church’s lay ministry, policy of common consent, and canonized endorsements of American democratic principles, those afraid of religious equality banished thousands of religious pilgrims in violation of the very values of American democracy they sought to protect.\footnote{See Jortner. \textit{No Place for Saints} and Fluhman. \textit{A Peculiar People}.}
Mormon Independence

As a result of increased anti-Mormon violence, the Missouri legislature passed a bill creating Caldwell and Davies Counties as new territories specifically for the Mormons to settle. As soon as this occurred, Joseph and other saints in Kirtland moved to Missouri, where Far West was designated the new gathering place. In a revelation dated 26 April 1838, the Lord gave the official name of the church. In 1830 it was organized as the Church of Christ. Later it was known as the Church of the Latter-day Saints. This revelation combined the two previous names, making its official name the Church of Jesus Christ of Latter-day Saints. He then commanded the saints to begin the work of building a temple on 4 July of that year. I argue that beginning the work of building a temple on the anniversary of American independence, together with giving the church a new name, connected the theological aims of the saints to the political means they would pursue in the next phase of seeking religious liberty. It also served as a religio-political deed declaring the church’s independence from tyranny and oppression in the same tradition as their American forefathers, who declared independence from Britain’s oppressive rule. While earlier revelations elevated the Constitution to a scriptural status, renaming the church on American Independence Day infused the Declaration of Independence with religious meaning. Laying the cornerstone of the temple in Far West on this same occasion also symbolically demonstrated the saints’ intentions to build a new nation where they could be free to exercise their religion without government or social intervention.

On 4 July 1838, the saints assembled at the town square of Far West, Missouri in the recently created Caldwell County, to celebrate American independence. The keynote speaker

was Sidney Rigdon, Joseph’s counselor in the First Presidency and the most impassioned orator in the church. Rigdon had prepared the document beforehand in connection with Joseph and Hyrum Smith. The speech declared the saints’ reverence and admiration for the Declaration of Independence and the Constitution, pledging their loyalty to the nation. Rigdon then described how Missouri citizens had violated the purposes of those national covenants by repeatedly forcing the saints to leave their home and property at the risk of their lives. Rigdon hearkened back to the August 1833 revelation that justified defending themselves after bearing persecution patiently. He declared that the saints would not tolerate violence and antagonism anymore, threatening a war of extermination against anyone who attempted to drive them out or leverage vexatious lawsuits. He also consciously explained that they would never be the aggressor, but they would be prepared to physically defend their interests.\textsuperscript{46} After the saints published this speech as a pamphlet, non-Mormons took it as a threat and gathered forces to drive out the Mormons once and for all. Internally however, this oration represented the beginning of a new chapter for the saints that shifted its focus from legal protection for religious freedom to political pursuits for the free and unmolested exercise of religious conscience. The distinction between legal and political means for obtaining religious freedom stem from their posture as defensive protection vs. offensive advocacy. The former was reactionary, the latter was proactive. Additionally, the church’s legal reasoning appealed to the textual codification of law, while their political action relied mostly on interpretation and contextualization of the implications of law in relation to Missouri’s actions against them.

**Conclusion**

The instructions received in documents and revelations prior to 1836 about the laws and Constitution served as the saints’ guiding principles as they sought protection through legal and ecclesiastical means. These documents also strengthened the legitimacy of the Constitution by canonizing God’s support for and divine will in its creation. While most Americans of the time revered the Constitution and believed in God’s providential hand in the establishment of Constitutional government, no other religious group raised the Constitution to the status of scripture, at least in a strictly religious or theological sense. Many Jacksonian Americans viewed the Constitution symbolically as an American scripture, believing that good government only existed as virtuous and religious people served God. However, only the saints claimed the principles of the Constitution as part of their canon. The church’s fundamental belief in the continuing revelation of religious truth extended to the legal and political sphere as well.

The documents in this early period reflect the largely private efforts of the church to request protection and compensation through correspondence with individuals. During this time, the saints wholly worked within the structures of American government and democratic institutions as the arena for their religious freedom struggle. Petitions, letters, and affidavits written for a redress of grievances were the legal channels the saints turned to, believing they were supported by the inspired Constitution. From 1836-1839, the saints continued these paths of defensive responses while continually facing violent persecution that forced them out of several more counties in Northern Missouri until their ultimate expulsion from the state. Repeated obstacles to their ultimate concerns culminating in Joseph Smith’s incarceration in November 1838 compelled them to change their focus and approach to framing the Constitution and its role in obtaining religious freedom. I now turn to the purposes, means, and outcomes of these shifts.
from Liberty Jail until the establishment of Nauvoo, Illinois as a haven of religious freedom in the next chapter.
CHAPTER 2- The Continuing Constitution: From Liberty Jail to Liberty De Jure

Introduction

From the Church’s organization in 1830 to Joseph’s imprisonment in 1838, the saints had increasingly viewed the Constitution of the United States as a divine document, with explicit approval from God. However, after being driven out of their central religious capital and finding no protection despite exhausting all legal means available for maintaining religious freedom, the saints slowly lost faith in the textual parameters of the Constitution and the American democratic system that upheld it. From their expulsion from the state of Missouri to the establishment of Nauvoo, Illinois as their haven of religious and political freedom, Joseph and the saints progressively affirmed that the Constitution’s inspired principles remained unfulfilled. Thus, the passage of the city charter by the Illinois Legislature and the saints’ subsequent codification of religious equality in the municipal government represented another shift in Latter-day Saint conceptions of religious freedom. I claim that these efforts were motivated by a theological belief in the freedom of religion that superseded the Constitution of the United States as the guarantor of religious equality. While the saints had previously scripturalized the Constitution as a way to restore its original meaning as they understood it, they now increasingly viewed the Constitution as an incomplete manifestation of the more transcendent principles of freedom that constituted the restoration of all things. Joseph became less and less reliant on the government to grant religious freedom and increasingly proactive in creating circumstances for the saints to provide it for themselves.

The Bill of Rights had defined religious freedom as a negative right constraining government interference in religion. Joseph rejected this construction, claiming religious freedom as a positive right granted by God that government should actively enforce.
Additionally, after Liberty Jail, he began to reconceptualize religious freedom from a more flexible paradigm. For Joseph, religious freedom was a continuous search for harmony and fairness between religious groups and the government for the totality of religious experience. The fulness of religious freedom could only be realized or discovered by increasingly living the principles of freedom. It was a limitless resource able to grow, evolve, and adapt to changing circumstances. Nevertheless, insofar as that harmony was tied to a relationship with the government, the fulfillment of religious freedom would be inherently partial until God came to rule and thus transcend the limitations of man. Joseph thus wanted to prepare for a godly government by enlarging the parameters and flexibility of the Constitution.

In other words, the Constitution had essentially been a fixed document with timeless value and relevance for Joseph; but after his release from Liberty Jail until enacting religious freedom in Nauvoo municipal law, he increasingly saw the Constitution as a living document to be perfected over time through revelation. Just as Jesus had come, not to abolish the law, but to fulfill it; so Joseph Smith intended to elevate the inspired, yet unrealized intent of the Constitution. In translating the Book of Mormon, revealing the Doctrine and Covenants, and revising and adding to the Bible, Joseph radically expanded the scope of Christianity by reimagining scripture as an open canon. Likewise, he elevated the Constitution to scriptural status, and I claim that after his experience in Liberty Jail he began to conceive of the

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47This idea of the Constitution as a living document is not to be confused with the theory that the meaning of the Constitutional text changes over time according to changing social circumstances and values, even without formally amending the Constitution. (See Steven G. Calabresi. “On Originalism in Constitutional Interpretation,” The Interactive Constitution, accessed 2 Aug. 2023, [https://constitutioncenter.org/the-constitution/white-papers/on-originalism-in-constitutional-interpretation](https://constitutioncenter.org/the-constitution/white-papers/on-originalism-in-constitutional-interpretation).) For Joseph, a living Constitution meant a process of development that fulfilled the ultimate purposes of the Constitution based on its foundational principles and continuing revelation. Joseph sought to restore the Constitution to its original meaning and purpose by expanding its scope. Just as a tree cannot produce fruit without strong roots, the Constitution cannot grow without a strong connection to its fundamental principles. In essence, Joseph sought to combine the originalist view with the modern adaptation perspective.
Constitution as an open and dynamic document. Joseph moved beyond merely adding to the American political canon. He reimagined it as a spiritual process of revelation.

Thus, after Liberty Jail, religious freedom became for Joseph and the saints, the restoration of the political order to its perfected condition rather than merely a foundational principle of good government. Where before, Joseph understood religious freedom as necessary for the Constitution to fulfill its purpose, now he believed the Constitution was a steppingstone to true religious freedom. The purpose of this chapter is to demonstrate how the events of the Mormon-Missouri War of 1838 that culminated in Joseph’s imprisonment in the Clay County Missouri jail reshaped Mormon church leaders’ understanding of religious freedom and the Constitution as well as explain the saints’ evolving methods for engaging in Constitutional discourse in the American political sphere. I will first briefly review the events of late 1838 that led to the violent conflict between Mormons and the state of Missouri. I will then analyze Joseph’s communications from Liberty Jail and the saints’ later realization of religious equality in Nauvoo that influenced the saints’ paradigm of freedom and redefined Constitutional democracy.

Historical Background

About a month after Sidney Rigdon’s Independence Day speech, a fight broke out in Gallatin, Missouri when a local candidate riled the antagonism of Daviess County residents against the Mormons as they waited to vote. While no one was killed, tensions with neighbors contributed to the spread of rumors that falsely accused the saints of conspiring to wage war in Missouri. In this desperate situation, the saints wrote to Governor Lilburn Boggs, requesting assistance in defending against their attackers. Having received dozens of letters asking him to act against the saints, including two affidavits from church apostles, Governor Boggs issued an
executive order to exterminate the Mormons or drive them from the state. Additionally, seventeen Mormon men and boys were killed at Hawn’s Mill, and in Far West, Joseph and others were taken by the Missouri Militia as prisoners of war to the Clay County Jail in Liberty, Missouri. Imprisoned from December 1838-April 1839 Joseph underwent a personal transformation and purification that outlined the subsequent transformation in the saints’ united efforts to obtain religious freedom. For the next several months it seemed as if the saints had been abandoned by the state and the Constitution. In March 1839, Joseph wrote two successive letters expressing increasingly hopeful sentiments that led him to adopt a new purpose and perspective regarding the meaning of religious freedom. Joseph prayed that the Lord would show forth his power for his and the saints’ deliverance. In answer to this plea, God taught him that there was purpose in their suffering and that persecution would not ultimately hinder the cause of Zion.

Religious Liberty Jail

The Liberty Jail letters also described Joseph’s passion for and understanding of the Constitution, providing the motivation and ideal he would seek for the rest of his life. Additionally, Joseph’s imprisonment emboldened him to take charge of his circumstances rather than wait at the mercy (or rather, the violence) of his oppressors. This experience caused Joseph to shift his strategy from a defensive one of legal protection to an offensive one of political execution. Written between December 1838 and March 1839, they reveal Joseph’s shifting emotions and thoughts on the circumstances of the saints and their role in taking responsibility for their preparation, protection, and freedom. Joseph counseled church members to take

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advantage of every opportunity to improve their situation and receive help from others. This was to be done by gathering statements and affidavits detailing the abuses and damages against them from Missouri. Prior to this, the saints had petitioned the government for redress, but had not explicitly detailed the extent of the abuses they suffered. These affidavits would become the focus of their efforts to appeal to the United States Government and the citizens of the various states.

The final letter from Liberty Jail is more explicitly political, explaining that the saints shared with other Americans the principle of “equal, coherent, and indefeasible rights.” While others may have used their unjust imprisonment as an excuse to complain against Constitutional law, Joseph instead laudably compared the Constitution to refreshing waters and the shade of a large tree. Despite repeated persecutions and prejudiced violence against the saints and against him personally, Joseph demonstrated the degree to which he supported, admired, and believed in the Constitution as a living document with the capacity to make room for all people under its canopy to partake of its fruit and enjoy its shade. This living tree also granted equal opportunity for all to taste the fruit with equal effects of nourishment for all. This fruit was not just a luxury meant for an elite few but was a necessity for all who depended upon it for protection and nourishment.

Joseph then compared American liberty to a nursing mother, lending further strength to the idea of the Constitution as a living and dynamic document. After describing the Constitution as a living document capacious enough to nourish and protect everyone, he concluded with a list

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of declarations that revealed his high regard for the Constitution. He declared that the Constitution is true, placing it alongside God and other scriptural texts as a monument of truth to be followed and loyal to until death. Comparing the Constitution and American Liberty to fruit-bearing and shade giving trees, as well as to a mother nursing a child speaks to Joseph’s idea of the Constitution as a living document. Thus, the Constitution could grow to cover more ground for the benefit of all people just as a tree and infant grow, develop, and increase in strength and ability. Just as the Lord declared to Joseph Smith that the Church of Jesus Christ of Latter-day Saints was the only true and living church upon the face of the earth, so the Constitution was true and living as a foundational source of freedom.  

The Liberty Jail letters uncovered the spiritual principles that undergirded the political means of securing religious freedom. In a now canonized series of verses, Joseph turns from expressing the immediacy of God’s absence to the constancy of his presence by describing the violence of the saints’ enemies as a pathetic and futile attempt to stop God from revealing more light to the saints. In other words, the persecution of Missouri was nothing compared to the power of God, and God would help the saints obtain religious freedom. The Lord then gives new perspective to the saints’ situation and a new framework through which they will eventually view the principles of freedom necessary for religious freedom. The letter explains that God desires to bless all people with the blessings of liberty, but most forfeit their divine favor.  

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In the context of these harsh religious persecutions, the Lord tells Joseph the current situation of the United States. While divinely watched over by the hand of providence to be a chosen land of freedom, the United States had become more concerned with power and wealth. Whereas the Constitution was established by the hands of wise men whom God had raised up for that very purpose, leaders of the government had aspired to the honors of men at the expense of the principles of freedom. Next, God explains that “[T]he powers of heaven connot be controled nor handled only upon the principals of rightiousness.” The reason why he had not delivered the saints from the bondage of persecution and prejudice is that God’s power cannot be coerced. It can only be obtained through righteous living.

The Mormons’ support from divinity did not negate their need to exercise humble, friendly, and principled engagement with their interlocutors in the political sphere. If they wanted the power to overcome their desperate situation and obtain equal religious rights, they would need to live the principles of righteousness, including long-suffering, love unfeigned, and pure knowledge. In contrast to the principles of righteousness, the Liberty Jail letter also outlined the consequences of retaliating in anger against their persecutors. What made a person or a people chosen had little to do with their religious or political persuasion and everything to do with their adherence to the principles of righteousness. If they chased after power to influence the direction of political and social trends by restraining the freedom of others or by compelling them to behave in certain ways, then heavenly support would withdraw, leaving power seekers to their own weaknesses.

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Therefore, to continue in their current trajectory of pursuing religious equality would leave the saints to their own power without God’s favor and support. Additionally, the Lord spoke out against those politicians who had corrupted the divine principles of the Constitution because they were in a position of hostility toward God and risked stirring up divine disfavor as they persecuted the saints. Thus, the saints’ persecutors were fighting a losing battle, not merely against a minority group, but against the Almighty.\(^57\) Despite the inspired principles that supported the Constitution prejudice, pride, and politics inherently crept in favoring some while out-casting others. The revelation comes full circle in its explanation for the insufficient enforcement power of constitutional principles and the weaknesses of religious freedom in the United States by restating the natural tendency of those in positions of power to lose the essence of true power by neglecting to live righteously. \([H]ence ma[n]y [are] called but few are ch[osen.])\(^58\)

These attributes both reinforce the saints’ prior efforts to defend their religious rights and foreshadow their future efforts to take the initiative by offering solutions to the problems in the political system rather than merely reacting to them. Joseph would put these principles into practice by presenting a memorial to the Senate and House of Representatives, meeting with the President of the United States, establishing a city charter and ordinances preemptively protecting universal religious freedom, and ultimately running for president himself. Joseph and the Mormons knew and would further discover the truthfulness of these tenets in the months after the Mormon-Missouri War. With the establishment of Nauvoo, Illinois as the saints’ new city of

gathering, Joseph would take the lessons from Liberty to heart both in his religious worship and political pursuits.

**Evolutionary Freedoms**

Upon escaping from jail, assisted by the prison guard and other appointed escorts, Joseph spent his efforts building up the town of Commerce, Illinois as the saints’ next gathering place. Joseph changed the name to Nauvoo and sought to shape it into a haven and bulwark of freedom and legal protection that had been denied them in Missouri. Additionally, Nauvoo became a religious city founded on an increasingly bold theology of human deification. While polytheistic civilizations had believed in the apotheosis of great rulers, warriors, or other figures in their cultural history for millennia, the distinct Latter-day Saint theology claimed that humans could achieve Christian godhood. Together, the saints’ theology and political worldviews intertwined, making room for an evolutionary process of religious freedom based on closer and closer approximations of true freedom as the Constitution and the people created structures and policies that matched their political ideals.

Joseph boldly taught in his last sermon before his death, that God was once as we are now, implying also that man may become as God now is. Just as a seed has all the biological data necessary to grow into a mighty tree, men and women as literal children of God, have the potential within them to grow to become as God is. In his mission of restoration, Joseph instituted a new era of knowledge from heaven that could exalt man to his ultimate station if he so chose to follow the course that would lead him there. Having revealed an expansive view of Christianity through the doctrines of plural marriage, plural heavens, and a plurality of Gods;

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Joseph had established a theological precedent for his political understanding of the Constitution and religious freedom as finished products only in the plural. Just as God revealed truth to men over time in a process of revision, refinement, and aggregation of knowledge; religious freedom was a doctrine that could be added to, changed, and made more complete through an evolutionary process of growth. Just as man’s highest destiny was to achieve God-like status, so the ultimate end of religious freedom was to take on a Godly character. While others before and during Joseph’s lifetime had conceived similarly revolutionary concepts of heaven and God as well as identified historical phenomena as processes of time, Joseph applied each of the theories to both religion and freedom uniting them in a coherent doctrine of evolutionary religious freedoms. In this way, Joseph’s structured view of religious freedom as an evolving phenomenon with multiple possibilities compares to Herbert Spencer’s influential theory of the nineteenth century.

Spencer published the theory of evolution even before Charles Darwin’s *The Origin of Species*. Darwin’s theory suggested that species evolve according to a process of natural selection, wherein the characteristics of a species best-suited to its environment will propagate those characteristics to their offspring and those less-suited to their environment will not survive. Herbert Spencer used the phrase “survival of the fittest” instead of natural selection both to emphasize the influence of external factors of circumstances and remove any implication of providential manipulation. What made Spencer’s thinking most influential though, was his synthesis of organic evolution and social history. As the father of sociology as a field of study, Spencer generalized the theory of evolution of individual organisms and species to the level of society. He claimed that society is essentially like an organism that grows and develops according to the external circumstances of its environment. Political, economic, and military
structures performed the roles necessitated by the geographical and demographic situations of a
country. Furthermore, Spencer emphasized that these processes of evolution were not unilinear
or even linear at all. There was no inevitable trend toward progress that determined the destiny of
society, but changing circumstances created divergent, and thus plural evolutions ad infinitum.60

Similarly, Joseph Smith generalized plural iterations of religious concepts and
evolutionary change over time in a theory of religious freedom as a non-linear process of
development. One major difference between him and Spencer is that Joseph acknowledged the
central role of agency in the process of developing religious freedom while Spencer roundly
rejected agency, instead emphasizing the role of external circumstances of the environment as
the cause of social change. While Joseph was killed before Spencer published his theory, their
similarity of thought within a decade of each other is remarkable. Their juxtaposition is also
justified by the fact that evolution has become the most influential scientific and social theory in
almost two centuries and Mormonism has continued to grow and evolve in ways reflective of
Spencer’s arguments. To initiate this process of changing conceptions of religious freedom and
its relationship to the Constitution, Joseph worked with the saints to carry out the instructions
from his Liberty Jail letters and prepare and gather the details regarding their sufferings in
Missouri so he could take them to Congress and present them to the President of the United
States.

Mr. Smith Goes to Washington

In their trip to the nation’s capital and prior to presenting the memorial to Congress and
the Senate, Joseph, Sidney Rigdon, and Elias Higbee visited the White House to present their
case to President Martin Van Buren. They hoped the President might lend his political support to

60Robert L. Carneiro, ed. The Evolution of Society: Selections from Herbert Spencer’s “Principles of
their cause. In a letter to Hyrum Smith and the Nauvoo High Council dated 5 December 1839, Joseph related what happened after presenting their letters of introduction to the President. After reading one of them, the President looked up at them with a frown and said “what can I do? I can do nothing for you,-- if I do any thing, I shall come in contact with the whole State of Missouri.” This encounter with the highest political official in the country disappointed the group and became a well-known and oft rehearsed interaction in later appeals, platforms, and other publications. Even if the words changed in their retelling, the same point was made clear: that the leaders of the nation in general had failed to uphold the Constitution and that President Martin Van Buren in particular helped maintain institutional prejudice against the church for political advantage, fulfilling the unfortunate realities revealed from Liberty Jail that few are chosen because they aspire to the honors of men and they exercise unrighteous dominion in positions of leadership. The President’s unwillingness/inability to do anything to protect the saints from future persecution also supports Spencer’s idea of nonlinear evolution. Joseph Smith would later explicitly make the point in his presidential campaign pamphlet that religious freedom was not on an upward course with President Van Buren as President.62

An oft forgotten fact of this interaction between the Mormon prophet and the American President is that the President had the Constitution on his side. The Supreme Court had ruled in 1833 in the case of Barron v. Baltimore that the federal government did not have the authority to enforce the Bill of Rights upon the states. Whether Joseph was aware of this ruling or not, his

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experience of violent persecution helped him see quite clearly how the preeminence of state
governments over the federal government was inherently unbalanced and gave precedent for
civil, religious, and even criminal injustice. Thus, President Van Buren’s rhetorical query “what
can I do? I can do nothing for you” was Constitutionally sound. However, his next statement “if I
do anything, I shall come in contact with the whole state of Missouri,” while it does expand on
the limits of the Constitution in the states, also demonstrates his political motivation. With an
upcoming election in 1840, he did not want to alienate a democratic state by turning popular
opinion against him because he helped an unpopular religious minority. He thus gave way to the
states’ rights doctrine that empowered the saints’ persecution by the state of Missouri.

Spencer McBride portrays Joseph Smith in this exchange as politically naïve. Joseph’s
aspirational views of the Constitution as scriptural or as prophetic, a document that could and
should grow, develop, and change until it fulfilled its original purpose, was not a perspective
shared by many outside the church. He believed, according to McBride, that “the government
operated on the ideals enshrined in the country’s founding documents, and that his case would be
judged on its merits alone.” While McBride points out that the Mormon prophet did not have
much of a legal case, he argues that the fact that they believed the Constitution would protect
their religious rights independent of political culture, which Joseph had never considered, gives
space for meaningful conversation on popular Constitutional interpretation in nineteenth-century
America. However, McBride stops short of offering an answer as to why this interpretation of
the Constitution is significant.

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Therefore, I argue, beyond what McBride claims, that the saints’ believed the Constitution to be a statement of philosophy that undergirded the entirety of American law and to which members of the federal government subscribed to, and then naturally put into action. This is significant because it shows Joseph’s faithful commitment to principle over party politics. McBride even points out that if Joseph were more politically savvy, he would have leveraged the Latter-day saint bloc vote to persuade Van Buren that it was in his interest to do something to help them. \(^{65}\) Joseph had learned in Liberty Jail, and in other revelations from the Lord, that power and liberty were obtained through adherence to the principles of righteousness and freedom. Thus, while President Van Buren was politically motivated and viewed the Constitution as a political tool that could be reinterpreted to fit political expedience, Joseph was motivated by religion and understood the Constitution as a living document that would fulfill its purpose as the people more strictly practiced the unchanging principles upon which it was built and for which it was originally created.

After meeting with the President, Illinois legislators presented to Congress a twenty-seven-page memorial, giving a meticulous history of the saints’ persecution in Missouri from their arrival in 1831 to their recent extermination from the state. They claimed their forced egress was motivated by religious intolerance, jealousy of the saints’ economic prosperity, and fear over their growing political influence in the state and in the counties where they gathered. The authors of the memorial described themselves as loyal believers in the Constitutional rights of all American citizens, virtuous, law-abiding, unoffending, industrious, and true people who were unjustly denied their civil and religious liberties. In doing so, they expanded the scope of religious freedom by asserting a broader definition of a citizen. As Adam Jortner has argued that

Jackson County residents asserted themselves as citizens to cast the saints as not citizens, and thereby justify denying them constitutional rights, the saints were now exposing that prejudice against them generally and redefining citizens to be those who publicly practiced the principles of freedom, thereby asserting their constitutional rights. They related their many failed attempts to obtain redress and compensation after appealing to courts, executives, and legislators at the local and state level of government to illustrate the inhumane and unlawful mockery of the Constitution and of common morality committed by the people and government officials of Missouri. They appealed to the Federal Government as a final attempt to seek redress, having nowhere else to go if the effort were to fail.66

Nauvoo: A Haven of Freedom

After Illinois legislators presented the saints’ Memorial to the Senate, the Senate sent it to committee with the task of deciding whether the Mormons’ case fell under the jurisdiction of the Federal Government, avoiding the issue of the saints’ requests altogether. The committee declared that it did not belong to federal jurisdiction, but rather to the courts of the state of Missouri or of the United States. Knowing that they could not take their case to Missouri for fear of their lives and knowing the universal prejudice against them there, the saints began focusing their efforts on building up Nauvoo. Joseph returned from Washington, D.C., and was informed later by Elias Higbee that Congress would do nothing for the saints, with a recognition that if he wanted religious freedom and equality, he would have to create it himself by restoring America to its Constitutional principles, prophesying that the United States

will be on the verge of crumbling to pieces and tumbling to the ground and when the constitution is upon the brink of ruin this people will be the Staff upon which the Nation shall lean and they shall bear the constitution away from the very verge of destruction.67

This depiction of the future destiny of the Constitution and the saints’ role in saving it from the corruption of the government reveals the saints’ continued faith in the Constitution’s divine principles even if America had lost its significance as the land of freedom. It also points to the idea from the December 1833 revelation that the Constitution was like a watchman on a tower to see the enemies coming from afar, making the Constitution a document whose ultimate destiny and purpose still lay in the future. But what its destiny would be was determined by who was charged with the management of the government. After all the saints had gone through, it was obvious to them that American government officials were not fit to rule because they disregarded and trampled on the Constitution. Rather, it was the saints who were the true guardians of liberty and who strove to support, build up, and defend the Constitution from the corrupt influence of those who hid behind the political doctrines of the period to justify neglecting the Constitution by taking away the religious rights of thousands of its citizens. Thus, Joseph and the saints refocused their priorities to internal affairs. After Congress’s refusal to act on the saints’ behalf, Joseph put his energy into shoring up the spiritual, economic, and political strength of Nauvoo to be a model city on a hill, moving away from seeking external compensation and acknowledgement, and instead constructing internal infrastructure that would enable them to establish religious freedom through means within their control.

Church members sought to secure their legal legitimacy by submitting a charter to the Illinois Legislature to incorporate the city of Nauvoo. The charter granted the inhabitants of Nauvoo a city council whose officers would be elected for two-year terms, the city council was

given authority to organize an institution of learning to be called the University of the City of Nauvoo, and a city militia to be called the Nauvoo Legion. Additionally, the municipal court could issue writs of habeas corpus, which would serve as a protection to the saints. The charter was accepted by both parties in the legislature, who, in the aftermath of the Missouri persecutions were much more favorable toward the saints and recognized the saints’ potential political strength.\(^{68}\) While Spencer McBride emphasizes Smith’s political naiveté as a factor in his interaction with President Martin Van Buren that led him to do nothing for the saints, Benjamin Park states that the saints were able to get their charter passed with bipartisan unanimity because they had learned to play the political game.\(^{69}\)

Having learned the power of political maneuvering, the saints continued publishing letters to the saints scattered abroad to gather to Nauvoo. While gathering was an integral part of the saints’ religious ends, that is, building a Zion community where the law of consecration would eliminate poverty and the temple would prepare church members for the second coming and millennial reign of Jesus Christ, gathering in their mind also strategically provided their cause greater political voice and protected their religious and civil freedoms. These mutually reinforcing reasons made it so that the saints could achieve two ends more effectively. The mixture of religious and political matters helped the saints refine their purpose and focus their efforts to achieve it. Edwin Firmage and Richard Mangrum argue in their legal history of the church that the Nauvoo charter essentially granted Nauvoo the legal status of a state, which may have been Joseph’s intent from the beginning. With the authority to issue writs of \textit{habeas corpus},


the municipal court of Nauvoo exercised sufficient power to protect church members from legal persecution. While the Nauvoo court was not the first in Illinois to be granted this power, it was the first to combine legislative and judicial power in the same municipal bodies. The mayor was also the chief justice of the municipal court, and the city councilors were the associate justices. Furthermore, later city ordinances expanded the authority of the municipal court to assume jurisdiction regardless of its original source, giving the city of Nauvoo authority to override actions of the state and even the federal government.  

I claim that for practical reasons, the saints built up the powers of the government in Nauvoo because of the failure of the state and federal governments to protect their religious freedom. Indeed, Joseph Smith even reasoned that Nauvoo was only subject to the Constitutions of the United States and of the state of Illinois, but the laws of both could not touch them. This reasoning stemmed from years of appealing to the government for protection and redress without any legal support, often based on a localist or states’ rights interpretation of federalism. The saints may have been asserting the supremacy of local (Nauvoo) authority over that of the state and the federal government both as a positive strategy to use the prevailing Constitutional logic for their own benefit and against their oppressors, as well as to mock the government and show them the absurdity of their own justification for doing nothing to help them. However, the saints’ loose construction of the powers granted them in the charter also demonstrated their undying loyalty to the United States Constitution and their shrewd ability to apply its principles to themselves in ways that mixed their theological and political purposes.

Firmage and Mangrum also point out that the government of Nauvoo prior to the enactment of the City Charter was managed by ecclesiastical leaders, who then became the city

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councilors, aldermen, and mayor. Additionally, Park argues that the purpose of creating a charter in the first place was to establish “true freedom of conscience and religion.” Because the government had refused to work with the Mormons to find a fair situation where each of them could fully engage in their religious/political experience, the saints had to abandon efforts to appeal to external powers in order to claim religious freedom independently. Thus, the saints shifted from seeking authority from American government-- which had lost its authority due to their trampling upon the principles of freedom and righteousness-- to autonomously enacting their own authority by virtue of their obedience to the laws of religious freedom. Jesus had taught as one having authority, and not as one who supported his teachings by claiming the authority of another prophet or rabbi. Likewise, Joseph Smith and the saints in Nauvoo created the infrastructure they needed to generate their own authority. Nauvoo was fundamentally a haven of freedom that could be guaranteed by the saints themselves without having to rely on outside government officials or entities, and in fact, the saints made it as difficult as possible for anyone outside of Nauvoo to interfere in their religious and political objectives. Nauvoo was a literal city on a hill exemplifying to the nation and to the world the meaning of true religious freedom.

In a 15 January 1841 Proclamation to the saints, the First Presidency of the church announced the Illinois State Assembly’s passage of the Nauvoo city charter the month before and encouraged saints, as well as non-Mormons to gather to Nauvoo expressing their hopeful optimism of the great economic and spiritual potential of the city. Additionally, the proclamation stated the saints’ principled interpretation of Constitutional rights.

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71 Firmage and Mangrum. *Zion in the Courts*, 83-103.
72 Benjamin E. Park. *Kingdom of Nauvoo*, 68.
…we claim no privilege but what we feel cheerfully disposed to share with our fellow citizens of every denomination, and every sentiment of religion…let all those who desire to locate themselves in this place…come, and we will hail them as citizens and friends.73

In the immediate aftermath of the expulsion from Missouri, many saints arrived at Quincy, Illinois where they were welcomed into warm homes and given food, clothes, and hospitality to weather the winter until they could establish self-sufficiency again. Quincy starkly contrasted the violent prejudice of Missouri and provided health and security to the saints without consideration of religious persuasion.

Both the kindness of Quincy citizens and the establishment of the Nauvoo charter gave the saints a new paradigm through which to work out their lives free to believe and exercise their religion. In March 1841, the Nauvoo city council passed an ordinance in relation to religious societies that further expressed the sentiment of the earlier proclamation, but further put it into action by codifying it in municipal law. The ordinance is perhaps the grandest expression of the Latter-day Saints’ ideal of religious freedom under the Constitution:

Sec. 1. Be it ordained by the City Council of the City of Nauvoo, That the Catholics, Presbyterians, Methodists, Baptists, Latter-Day-Saints, Quakers, Episcopalians Universalits Unitarians, Mahommedans, and all other religious sects and denominations whatever, shall have free toleration and equal Priviliges in this City…74

However, despite its liberal enactment of religious equality under the law, virtually every resident of Nauvoo was a Latter-day Saint, thus rendering its acknowledgment of inclusive diversity somewhat empty. Nevertheless, the saints were sincere in their efforts to enshrine religious freedom and viewed their municipal government as a model to be followed by the states and the nation.

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As McBride claims, religious freedom for Joseph Smith was not merely an acknowledgment of the liberty of conscience, but “real religious freedom required the religious majority to defend—and even facilitate—the worship of others.” That is what they tried to do in Nauvoo, and that is what they desired for themselves in “the boasted land of liberty.”

Furthermore, this statute went so far as to grant all religious people equal status in the city, something that the Declaration of Independence and the Constitution of the United States only implied. Indeed, Joseph later declared that the only things the Constitution lacked to provide true religious freedom for all people was the explicit promise of the religious freedom hinted at in the national charter. Within the jurisdiction of Nauvoo, acting under the authority of the Constitution and the authority vested in them through their commitment to eternal laws of freedom, the saints made real religious freedom a reality.

The remainder of this ordinance further enforced religious equality by imposing fines and/or imprisonment on anyone guilty of disturbing the peace on account of anyone’s religion and obliging city officials to report any such violations of the ordinance. Additionally, city council members were given legal authority to arrest any perpetrators “with or without process.” On one hand, this city ordinance enshrined and enforced religious freedom, giving the saints and everyone else who may visit or migrate there the rights granted in the first amendment to the federal Constitution. On the other hand, the strict enforcement of this clause led some to become wary of the saints and criticized them as not granting the free exercise of religion as much as establishing Mormonism as the official religion of the city. This brings up

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75 McBride. Joseph Smith for President, 49.
another matter at the heart of the debate on religious freedom. Whether Mormons, Congress, or anyone else gets to define Constitutional religious rights has to do with their expectations of the political order. As I argued before that the saints created authority for themselves by getting the Nauvoo charter passed, they saw the combination of ecclesiastical and civic authority as necessary for guaranteeing their religious freedom.

Conclusion

Joseph’s beliefs and understanding of religious freedom could be seen as either primitive or progressive. Indeed, as part of the restoration of all things he was trying to bring to pass, he did look to ancient forms of governance that had no conception of religion and law as separate spheres of existence. On the other hand, Joseph’s ideas were forward looking because he saw religious freedom as an incomplete process, but also because he advocated for universal equality of religious rights under the law. This latter idea did not become reality until the 1960s, when Congress passed the Civil Rights Act that outlawed religious as well as other forms of discrimination. One could also argue that it wasn’t until later, even including America’s current conflicts over self-identity. Either way, Joseph’s Constitutional philosophy was revolutionary in both the forms and principles of government he espoused. Hearkening to the American Revolution, Joseph initiated a religious freedom movement that for him, was much bigger than himself or the Latter-day Saints.

The American Revolution was revolutionary in the form of government the colonial delegates created. By breaking with tradition and bringing into existence a fundamentally different government structure incompatible with Great Britain, Americans were able to think about politics and religion and everything else in equally revolutionary ways. In many ways, Joseph wanted to do the same thing as the founding fathers of the United States because he had
experienced the same unrepresentative and even harmful practices from the state and federal
government that the founders had from Parliament and the King of England. At this point in his
life, however, Joseph did not want to break with the United States and create an independent
entity. Nevertheless, he could relate with the sentiments of the Declaration of Independence
when it expressed the right of the people to alter a government that had been abusive for an
extended amount of time according to what they felt was most likely to secure their safety and
happiness.

The Declaration of Independence gave historical precedent to Joseph’s cause. Although
the founding fathers installed a new kind of government with a unique design and operation,
their primary concern was to establish principles sustainable for liberty. These principles gave
purpose to the structure. In like manner, Joseph wanted fundamentally to create a government
founded on the principles of freedom. Structure was less important because applying the
principles would produce the desired result in a variety of government systems. Therefore,
Joseph did not wish to abolish democratic government as much as he wanted democratic leaders
to abide by the principles of freedom. Thus, he explored new ways of practicing democracy and
experimented with new political structures.
CHAPTER 3- Constitutionalizing Zion

Introduction

The premise of Joseph Smith’s restoration of the fulness of the gospel was that the institutional and doctrinal truths established by Jesus Christ had been corrupted and lost, making a restoration necessary. This restoration was different than a reformation because it did not build on existing Protestant or Catholic power structures but was founded on Godly authority given through heavenly messengers. In his political restoration of religious freedom, Joseph had learned that the Constitution, like the church, had become corrupted and the principles of freedom it established had been lost. After Joseph’s and the saints’ flight from bondage in Missouri to a new land in Illinois, he established the institutional structure and the political and theological doctrine necessary to restore the true purpose and intent of the Constitution. However; it did not require the appearance of the founding fathers to bestow authority. Joseph claimed it as an inheritor of American freedom and a preserver of republican virtue. In essence, America had apostatized from the Constitution, but Joseph had remained faithful to the principles of freedom.

While Americans became wary of Joseph’s simultaneously held ecclesiastical and political positions, Joseph saw these roles as inseparable parts of the same work. In other words, Americans believed freedom depended on the separation of church and state and Joseph insisted that freedom could not exist without their united complementarity. Each entity, if balanced, would produce a greater system of freedom than either could produce on its own and create an entirely new governing system. Recognizing man’s inclination toward tyranny or anarchy in the ministration of government, Joseph emphasized that the virtues of the American founding had been taken to the extreme, rendering them vices. Thus, Joseph set out to restore the balance in
Constitutional principles to establish true religious freedom. Joseph’s ultimate understanding of religious freedom then, was to unite first Latter-day Saints and then citizens of states in restoring the kingdom of God as a religious and political institution.

**Historical Background**

Having built up legal and political fortifications for Nauvoo, their enemies had to pursue new forms of persecution. Roughly two years after settling in Nauvoo, the saints made headlines again. This time they were not victims of unlawful violence, but alleged perpetrators of it. On 6 May 1842, it was reported that former Missouri Governor Lilburn W. Boggs had been assassinated and the rumor spreading was that a Mormon directed by Joseph Smith, if not Smith himself, was the culprit. It was later found out that Boggs was not killed but survived the attack. A month later in an editorial of the Latter-day Saint periodical *Times and Seasons*, Joseph Smith, as editor of the newspaper, responded to this and other criticisms against the church. Denying any claim of Mormon involvement in the assassination attempt, Joseph then spoke directly to critiques against the Nauvoo charter and the ordinance guaranteeing religious freedom. Joseph Duncan, former Governor of Illinois, and current Whig candidate for the office spoke out against the saints, probably because Joseph Smith had endorsed the Democrats. Duncan complained that the Act to Incorporate the City of Nauvoo gave city officials and the church too much power and, despite Latter-day Saint claims to the contrary, that they practiced religious discrimination.

**Nauvoo Religious Freedom in Dispute**

Referring to the ordinance in relation to religious societies that made disrupters of religious equality subject to heavy fines, Duncan argued that the saints sought to form a legally established religion, portraying the saints in an anti-republican light. He further explained that this act would lead to an arbitrary and monarchical form of government, granting as it does,
exceptional powers to the mayor and the courts. Joseph Smith responded to these claims by explaining that every power granted them in the charter had already been granted in other city charters, and that while some aspects of those powers may have been unique to the city, they were far from unconstitutional and had precedent. Additionally, Joseph countered that all religious denominations had equal privilege under the law, and that the saints could not claim nor be granted special privileges. Joseph rhetorically implied that Duncan’s claims were unfounded and without evidence.

However, Duncan’s portrayal of the saints as opponents of religious freedom, simultaneously depicted himself as an advocate of it. This complicates each party’s claim to grant religious liberty and demands that we determine what each meant by the term, and then analyze how they put it into practice. As I have shown throughout this thesis, members of the Church of Jesus Christ of Latter-day Saints had an evolving understanding of religious freedom, but by the time of this debate, they had deemed it as something only they had the capacity to administer. After a decade of repeated refusals from the government to protect and compensate them for the religious persecution they experienced, the saints finally enacted it themselves through the Nauvoo charter. Joseph Duncan on the other hand had not experienced religious persecution, and thus advocated for religious equality only in the context of the saints’ sweeping claims of ordaining it in the charter when they were virtually the only religious denomination in the city. Acknowledging the saints’ potentially lop-sided interpretation of religious freedom, I believe they still offer a more substantive case for religious freedom advocacy. Duncan was arguing as a political candidate with political motivations, and while the saints had established political power in the city, county, and state they were not seeking for political office and had
done all they could within the democratic system to effect a broader application of religious freedom, which is more than Duncan could say.

Furthermore, Joseph Smith even went on to claim that if every city had a militia as large and effective as the Nauvoo Legion, the republic would be safer and better off. As to Duncan’s attack on Joseph’s character by portraying him as a hypocrite in his denouncements of slavery while supporting a slave holder for Governor, which Duncan viewed as “irreconcilable with common honesty,” Joseph decried that Duncan’s exhaustive tirade against Mormonism was evidence of his own political maneuvering and self-interested motivations. Duncan had also criticized the Illinois Legislature for granting the Nauvoo charter with the sole intention of gaining the saints’ political support.\(^\text{78}\)

Dissension and Doctrine

At the same time, John C. Bennett, who was influential in getting the Nauvoo Charter passed in the Illinois Assembly, had since been excommunicated from the church and initiated a campaign against the prophet and the Mormon religion through the writing of an exposé. While still a member of the church and the First Presidency, Bennett had been in contact with James Arlington Bennet of New York, who had defended the church in a published letter, proving himself a friend to the saints.\(^\text{79}\) When John C. Bennett was excommunicated, he sought James Arlington Bennet’s help in publishing an anti-Mormon book, which Bennet refused. In a letter to Joseph Smith in August 1842, James Bennet expressed his positive assessment of the character and virtue of several saints in New York, saying he could associate with them forever even if


never joining their church. In response, Joseph expressed his joy that Bennet spoke well of the men in his letter saying in essence that to judge a man by his character regardless of his religious opinions respected his rights according to natural law and a mutual respect from the religious man to not infringe on the rights of others because of his religion was a doctrine he believed and practiced.

We learn from this correspondence that Joseph believed religious freedom to be a mutual acknowledgment of a person’s humanity as well as respect for their rights regardless of religion. Joseph later said in the letter that if this were not the case, it would create a vicious cycle of destruction. Therefore, religious freedom was not only a matter of political equality or religious belief: its establishment was necessary for preserving life. However, Patrick Mason has argued that despite creating an environment of religious equality in Nauvoo, religious pluralism was incompatible with theodemocracy, which Joseph eventually formulated as the form of government best suited to create true religious freedom. Mason claims that true religious freedom is only possible if people of different religions collaboratively respect others’ religious worldviews and lifestyles as much as their own to create harmony and fairness in a nation of increasing religious diversity. Nauvoo was a successful experiment among a religiously homogeneous people, but it would only be a matter of time until they would confront diverging opinions again from Mormon dissidents and external rabble rousers.

Joseph’s illustration of a vicious cycle destroying the religious freedom of each individual group connected the persecution of the Latter-day Saints to the broader American

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population. If one group of people could be murdered and driven from their homes without fear of punishment, then the same could happen to anyone else. In essence, Joseph was saying that the persecution of the Mormons for their religious beliefs and practices represented the denial and rejection of religious liberty for all Americans and ultimately for all people. This argument assumed the citizenship of the saints, which they emphasized as an important fact multiple times in their appeals and petitions. As part of their reasoning, they implied that to live in a nation they (and Americans in general) believed was founded on the freedom of religion made violations against it injurious and insulting. It pointed to the hypocrisy of the nation in allowing their highest ideal to fail because the cultural and political ideologies that prevail were incompatible with it. Joseph also explained in the letter that if America did not do something to restore the religious liberty of the saints, then the violence, prejudice, and injustice they suffered would inevitably spread until the whole world would succumb to it. He also related how the saints have, in every instance, obeyed the law, even when it was unjust, making the saints’ persecution even more lamentable.  

In addition to mutual respect, this doctrine of religious freedom that Joseph “subscribed to” includes other implied tenets. First is the idea of religious equality, then liberty of conscience or the freedom of belief, and finally religious free exercise. In claiming that he believed and practiced this doctrine, we now get to evaluate his success, keeping in mind to assess whether he lived up to it according to his own understanding of the terms. We must also recognize that Joseph did not explicitly lay out this doctrine, so we must examine his own words and actions and not our own interpretations of them. I argue that Joseph and the saints increasingly believed

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in and publicly expounded this doctrine of religious freedom as the principles upon which the Constitution was based and that had been abandoned since the presidency of Martin Van Buren. The saints sought to restore these principles to the Constitution and pragmatically establish them as staples of republican culture.

To say that church leaders and members were frustrated is an understatement. The prophet’s anger at the lack of support from the government came out at the occasion of the Nauvoo Legion’s general parade in May 1843. In a brief speech, Joseph related previous failed petitions to government officials for protection and compensation and condemned those in power for their negligence. By this time, the saints had corresponded with the Governor of Missouri, petitioned the President of the United States, written a memorial to the United States Congress, visited the president in the White House, and addressed Congress with another memorial all of which were met with silence and rejection. This was in addition to the many suits and charges brought against them in the courts, critical speeches and published literature riddled with hostile testimonies and accusations, ignored petitions, unfruitful correspondence with politicians, and of course the actual violent destruction of property and personhood. The timing of this discourse by the prophet emphasizes the degree of his condemnation of all levels and branches of government.

**Constitutional Embodiment**

While the government continued to do nothing to help the saints, the Governor of Missouri sought to actively do them harm by arresting Joseph. In June 1843, Missouri Governor Thomas Reynolds made a requisition to extradite Joseph Smith to the Jackson County, Missouri sheriff after Joseph had been indicted for treason by a grand jury for his role in the Missouri-Mormon War of 1838. After being arrested by Illinois officials to be turned over to Missouri, Joseph sought the help of his legal counsel, of which Cyrus Walker was one of his attorneys.
After the passage of the Nauvoo City Charter, the Nauvoo City Council had strengthened and expanded the power and jurisdiction of the Municipal Court to include cases involving violations of state law. Walker helped Joseph in the process of overriding the requisition order and protecting him from legal deterrents. While being held in custody, the Nauvoo Legion intercepted Joseph and escorted him and his arresters to Nauvoo to evaluate the merits of the arrest. After arriving in Nauvoo, Joseph spoke to a crowd that had gathered at the grove near the site of the Nauvoo Temple and justified the actions of the Nauvoo Legion. “…[I]f there is not power in our Charter, and Courts, then there is not power in the State of Illinois, nor in the Congress <or Constitution> of the United States…”

Firmage and Mangrum claim that in this discourse, Joseph interprets the Nauvoo city charter as a kind of irrevocable constitution that was only subject to the constitutions of Illinois and of the United States. Thus, Nauvoo municipal powers granted by their charter trumped Illinois state law. Revealed in this quotation and its context is Joseph’s belief in at least two absolutes. The first is the inalienable rights of religious freedom as granted in the founding documents of the nation, and the second is the incontrovertible nature of a constitution in relation to other official legal deeds. While Joseph was a witness to the weakening of the Constitution by those in power, his support of the Constitution itself had never been stronger and would only grow. Even as his conception of the Constitution’s role, purpose, and structure evolved into something foreign to Americans at the time, his objective never changed. He consistently affirmed and pursued the two absolutes of religious freedom for all, and the special status of the Constitution.

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84 Firmage and Mangrum. *Zion in the Courts*, 88.
Joseph also spoke his mind about the next steps for the saints if Missouri oppressions did not cease. Building on the anger and frustration he expressed the month before, Joseph invoked priesthood authority in removing all restraint in the saints’ submission to repeated injury. As an example to his fellow saints, he declared his refusal to continue to be the defenseless victim and resolved to spill his blood for his “charted rights, privileges & freedom” guaranteed by the Constitution of Illinois and the United States. While explicitly counseling the saints not to be the offender, he also encouraged self-defense and justified the saints in fighting back against those that sought to take away their constitutional rights. This discourse was reminiscent of Sidney Rigdon’s fourth of July speech in 1838 in its declaration of willingness to shed blood in defense of their constitutional rights as well as in the increasing tension and violence it brought against the saints.

From this discourse, we can see Joseph’s bold legal reasoning and strong desire for the enforcement of religious freedom he sees as guaranteed by the Constitution of the United States. His repeated religious oaths and justifications in defense of his Constitutional rights exemplify his increasingly theodemocratic solutions to the grossly insufficient and corrupt realities of democracy. If we consider all of the documents detailing the saints’ persecution and their appeals for redress, compensation, and protection there is a single argument at the heart of them all. It is also the only criticism Joseph had of the democratic system: it is that religious freedom, although codified and enshrined in the Federal Constitution as well as most, if not all, state constitutions, was not enforced. Thus, in a moment of success due to the saints’ own efforts to obtain protection, freedom, and equality under the law; Joseph did what he saw as empowering the

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saints with their only other means of help. This, he had previously discouraged in an effort to obey the laws of the land, which were declared by God to be inspired. Joseph’s boldness in the moment of his discourse in Nauvoo reflects the larger change and shift in emphasis to his approach at securing religious liberty that began in Liberty Jail.

Three days after his release from custody, the church held a special conference as part of their Independence Day celebration at which Joseph spoke to a crowd of over fifteen thousand people explaining the circumstances of his arrest and the claims made against him to justify his arrest. On the conviction of treason, Joseph claimed he literally could not have committed such according to its legal definition. He was never in Missouri on military business, never had weapons with which to fight against the state, and was never there longer than six months. He explained that he only held a military position out of obligation to fulfill the law which the mobbers in Missouri had made nearly impossible to obey. Additionally, Joseph addressed the accusation of shooting former Missouri Governor Lilburn Boggs. He denied committing the crime on grounds of being a peaceable citizen, which “the people know vary well.” Despite this, he was dragged to court anyway; however, he was acquitted, thus making it a closed subject. Later, he commented on the bloc voting of the saints and his telling them how to vote. He explained that the saints naturally vote for the candidate that would give them their rights over one that would exterminate them and take away their rights. No one need tell them how to vote when the options were clear.86

However, Park argues that Joseph began to play the political game, promising to candidates of either party the saints’ vote if they would protect and support the saints in their

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religious rights. This granted the saints considerable influence in national elections since Illinois was a swing state and the election often came down to several hundred votes, which the saints could determine by their virtually unanimous voting patterns.\(^8^7\) Additionally, McBride shows that the reality of the saints’ bloc voting should have been acknowledged by Joseph, particularly in his meeting with President Van Buren, to persuade him to action on behalf of the saints.\(^8^8\) In his history recording the events of this period, Joseph is reported as saying,

> All the power that I desire or have sought to obtain, has been the enjoyment of the Constitutional privilege for which my fathers shed their blood, of living in <peace in> the society of my wife and children and enjoying the society of my friends, and that religious liberty which is the right of every American citizen, of worshipping according to the dictates of his conscience and the revelations of God.\(^8^9\)

Joseph’s views of the rights of citizenship, connected as they were to his views of religious freedom, grew like a living organism to include bloc voting. Joseph had exhausted the resources of American Democracy only to be met with government stumbling blocks. He turned those stumbling blocks into steppingstones by using what he perceived as corruption to his own advantage. In Joseph’s eyes, bloc voting and catering the saints’ vote to the candidate who would support the Latter-day Saints was no different than President Van Buren’s refusal to help the saints for fear of losing political advantage in Missouri, except that Joseph’s motivation came from a desire to advance the cause of righteousness and freedom while Van Buren’s was personal aggrandizement. Additionally, Joseph was building a godlier form of democracy by uniting the voice of the people to the will of God.

\(^8^7\)Park. *Kingdom of Nauvoo*, 80-81.  
\(^8^8\)McBride. *Joseph Smith for President*, 20-21.  
This mixture of democratic government and theocracy was Joseph’s vision of a living form of government that placed democracy within a theistic framework, recentering the focus and purpose of democratic government to be more communal in design. Because Joseph believed the Constitution was incomplete and needed to grow as a living document, he understood American citizenship in a more expansive way. What the Constitution would fall short of granting as a right of citizenship, Joseph would argue was synonymous with citizenship. In contrast to the accusations of threatening American Democracy, Joseph desired only to freely and peacefully exist to enjoy the privileges of American citizenship and religious devotion. Nonetheless, these desires expressed his most important objectives: Constitutional rights and religious worship. These two highest priorities for his life and for all who likewise desired them shaped his methods, perceptions, and ends.

McBride also argues that Joseph did not reject states’ rights as a political philosophy, but only its current application as a justification for Mormon mistreatment. He points forward to the saints in Utah Territory, who met opposition from the federal government for practicing their religion. States’ rights was not inherently flawed, but the federal government’s interpretation of it left the saints defenseless against prejudiced and unjust state governments. Under different circumstances, states’ rights likely could have benefitted the saints. In fact, Joseph tried to adapt the reasoning of states’ rights in the election process and in his Nauvoo administration as a protection against corrupt and unjust government action from every source. While Joseph did not acknowledge the potential power of states’ rights for the saints in his conversation with President Van Buren, he did utilize a modified version of it in his later appeals, platforms, and public speeches that implored the sympathies of the American people for support.

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90 McBride, *Joseph Smith for President*, 212-213.
Internal Offense, External Defense

After Joseph was released from arrest by the Nauvoo municipal court, the arresting officers went to Carthage and sent a petition to Governor Ford requesting that Joseph be escorted by the military back to Missouri. Joseph then sent an affidavit to Governor Ford requesting he not dispatch the Illinois state militia to apprehend him and send him to Missouri. Under these circumstances, Joseph tried to explain his innocence and legal acquittal, and send missionaries to spread the facts about his arrest and subsequent release to ease the increasing tensions from antagonists outside Nauvoo. As an attempt to muster popular support and gain society’s sympathies, Joseph and early converts strove to be tolerant and respectful of other religions. They respected the right of others to exercise their religion as they wanted to be respected in their own religious rights. On 9 July 1843 Joseph emphasized beliefs he held in common with other religions. He expressed the sentiment that he was just as willing to die for the religious rights of another denomination as he was for his own. It was not sectarian supremacy that motivated him, but a love of liberty. He also expressed his desire to metaphorically weld all religions together in unity. He additionally said he would compel no man to believe as he does but was friends to all regardless of belief. “If we would s[e]cure & cultivate the love of others we must love others. Even our enemies—as well as friends.”

Soon after his discourse, Cyrus Walker was nominated as the Whig candidate for Illinois Congress. Joseph had promised him his vote, largely because of the help he rendered the prophet in overturning his extradition to Missouri. However, when Joseph’s pledge to Walker became

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public knowledge, Joseph’s brother Hyrum claimed to have received a revelation that the Saints should support Democrat Joseph Hoge. In a sermon given 6 August 1843, Joseph Smith addressed the saints and confirmed his earlier pledge to Walker, but also endorsed Hyrum’s revelation, saying he did not want his name used for electioneering purposes. He reasoned,

I have not come to tell <you> to vote this way. that way. or the other.
in relation to national matters I want it to [go] abr[o]ad to the whole wo[r]ld. that every man should [p. [32]] stand on his own merits. the Lord has not given me Revelati[o]n conc[e]rning politics.— I have not asked the Lord for it.— I am a third party stand independnt and alone— I desire to see all parties protected in their rights.93

Because the saints had a reliable record of voting for Democrats and because Joseph had previously approved his brother’s expanding prophetic role, Hyrum’s revelation held more sway than Joseph’s promise and Hoge overwhelmingly won the election. While some felt the saints were abusing democratic privilege by voting as a bloc, others relied on it for political advantage. This episode alienated both parties by basing political decisions on religious reasoning, increasing negative sentiment toward the saints. Whigs felt betrayed and accused the saints of baiting them, only to change their mind in the end. Joseph’s comments on politics contradicted Hyrum’s claim to revelation on political matters but expressed his consistent desire “to see all parties protected in their rights.”

I claimed in the last chapter that Joseph believed the Constitution was a living document perfected by revelation over time. This seems to contradict his excerpted quote above that says he never received revelation concerning politics. However, this discrepancy is allayed by the context in which the latter was said. This exchange confirms Joseph’s prior interactions with politicians that show his adherence to principle over party. Joseph had railed against Martin Van

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Buren (a democrat) for doing nothing to help the saints, had befriended and supported democrat Stephen Douglas, developed mutually respectful relationships with Missouri and Illinois Governors of both democrat and Whig parties, and would later criticize Whig Henry Clay whom he historically had admired and praised. These nonpartisan actions point to his love of liberty regardless of who will work to enforce it and show his loyalty to his core religious and political ideals. Even though he received revelation regarding the Constitution, he had primarily been concerned with the welfare of the saints in Jackson County. And his claim to not receive revelation concerning politics is consistent with this because he allowed the saints the freedom to choose who they would vote for and he was never politically motivated when receiving revelation.

Like his understanding of liberty of conscience, Joseph believed the U.S. Constitution lacked reinforcement. He said in a discourse on October 15, 1843 “I am the greatest advocate of the Constitution of the U.S. there is on the earth. In my feeling the only fault I find with it is it is not broad enough to cover the whole ground.” In other words, it espoused equality and freedom for all but did not provide the infrastructure to enforce it. Joseph believed the Constitution was too weak because government leaders had lost sight of God as the source of the Constitution’s power. Because it did not require the federal government to use their power to defend minority rights, the Constitution had become corrupted, and democracy was imploding. Joseph reconfigured democracy, and thus citizenship rights and religious freedom, to be theocentric. Americans had refashioned the Constitution in their own image, while Joseph was restoring the Constitution to the image which God had inspired it to be.

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Weaknesses of the Constitution

Joseph’s belief that the Constitution was flawed because it lacked enforcement power, and that states’ rights had functionally replaced the Constitution as the supreme law of the land led him to his final appeal for help from government officials. On 4 November 1843, Joseph dictated a form letter addressed to the five men who were frontrunners in the upcoming presidential election. Joseph had met or corresponded with several of these men before and wanted to know their “immediate, Specific, & candid reply” to one simple question: “What will be your rule of action, relative to us, as a people, should fortune favor your ascension to the Chief Magistracy?”\(^95\) In this final effort to seek help from the government, the saints were again disappointed. Of the five candidates written, only three replied, and each answered that it was not under the jurisdiction of the Federal government to intervene for the saints because it was a state matter. From this point forward, the saints could see that the prevailing political doctrine turned the Constitution into a useless piece of paper. If the federal government had no power to provide its citizens their most basic and fundamental right, then it needed drastic restructuring or Joseph needed to expand his political scope to benefit the saints. Joseph would try both strategies to emphasize their status as citizens with all its privileges and responsibilities.

Joseph believed the Constitution had failed to produce religious freedom in the United States. Even if it identified religious freedom as one of its primary purposes, the leaders of the country had interpreted the Constitution to protect their own religious interests at the exclusion of others. Joseph sought religious freedom as the highest ideal of government and society that transcended the Constitution. Scholar Chris Beneke on the other hand, claims that religious freedom

freedom was the legal result of establishing the Constitution and was transcended by pluralism as a cultural phenomenon. He describes religious liberty as the consequence of minimizing or eliminating established religions. However, Beneke emphasizes the lesser-known ideological transformation of American social discourse from toleration to pluralism. For Joseph Smith in the 1840s, religious freedom meant the equality of public religious practice for all religious persons and groups. For Beneke, pluralism referred to a mutual recognition of respect and solidarity among white Protestant religions. Beneke points out that even though the restriction of pluralism to white, male Protestants was flawed and limited, it provided a foundation and pattern for later expansions of its scope. Joseph’s pronouncements of religious freedom for groups outside the Protestant mainstream build on that framework, even if Beneke does not mention them for the purposes of his thesis.96

However, we can appreciate Beneke’s generalized theory in a specific context by applying his thesis to the case of Joseph Smith. First, Beneke argues that pluralism has inherently religious meaning. This is similar to Joseph’s belief in the spiritual nature of religious freedom. Therefore, each can be fully realized only as religious diversity is given legal and cultural parity. Even though Joseph lived in a United States that valued diversity and strove to embrace it, he exposed the limits and biases in the political and social systems that prevented them from accepting a religion that did not originate in the familiar Protestant model. Denominational diversity flourished in America, as the Constitutional interpretation of religious freedom favored fragmentation of shared ecclesiastical origins. But Joseph’s call for an equal opportunity for a church entirely independent of the mother tree opposed an entrenched American identity. Therefore, the religious origins of pluralism and freedom meant different things for Joseph and

American hegemony. For Americans generally, religious pluralism was acknowledged as a selective equality of value among a growing diversity of religious institutions. For Joseph, religious freedom implied a theological doctrine, acknowledged by the people of the United States, that unified all religions in purpose. While Americans pursued religious freedom by slowly coming to terms with religious difference, Joseph framed religious freedom by minimizing difference in favor of uniting all people in a Zion community.

**Mormon Appeals to Citizens of the States**

Joseph’s failure to influence national politicians in uniting their understandings of religious freedom explains his final shift in emphasis and motivation for personal political participation. On 29 November 1843, leaders in Nauvoo convened a meeting “to appoint committee to get subscribers” for a new memorial to Congress and reflected on their traumatic experiences in Missouri. A few members present also read aloud three documents which included a response from Henry Clay to the letter of 4 November, the new memorial to Congress, and General Joseph Smith’s Appeal to the Green Mountain Boys. The latter document was written by W. W. Phelps, whom Joseph had commissioned to write to the citizens of Vermont requesting assistance in obtaining redress from Missouri. After reading the appeal, Joseph called every man “who could w[i]eld a pen write an address to his mother count[r]y,” or request help and aid from their home states. Additionally, in his thinking, he would use states’ rights to his advantage by rallying the power of the various states to force the Federal Government’s hand and fight against mobocracy.97

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Joseph’s Appeal to the Green Mountain Boys was the first of seven like appeals published and established a model and precedent that others would follow. Historian Brent Rogers has researched each of these appeals and identified their common themes and analyzed their contents. First, he acknowledges how these appeals reveal growth in Mormon participation and activism in national politics. While their stated audiences were the respective states to whom they were writing, Rogers claims their real audience was church members. The appeals functioned to rally and unite the saints around a certain set of political ideals by setting aside their unique religious beliefs and doctrines and emphasizing the Mormons’ similarity to and common cause with other Americans. Appeal writers repeatedly portrayed themselves as loyal citizens of their native states and the United States as a whole. The authors present themselves as defenders of American values and liberty, while they described their enemies as tyrants whose prejudice and violence weakens and destroys what America stands for and counteracts its highest ideals. They point to the flagrant violation of virtue, liberty, and patriotism in the crimes of Missouri as destroying American liberty and explain how the violence against the Mormons, if unredressed, will be the death and loss of freedom for America. As Rogers concludes, the appeals demonstrate the saints’ dedication to American principles of liberty and revealed the collective political voice of the saints in their attempts to end what they viewed as systemic prejudice.98

Building on Rogers, I reason that these seven appeals created a narrative of religious freedom and Constitutional doctrine that reflected the voice of the saints generally. While the saints had previously practiced bloc voting and had rallied around the prophet and other church leaders in their formulation and execution of political beliefs and actions, the saints were simply

echoing Joseph’s sentiments. With the appeals however, the saints collectively took on a political identity that informed their future purposes and behavior. The democratic approach to asserting their rights enabled their religious community to become united in mind and heart and prepared them to receive the theological and political teachings that Joseph would reveal. In other words, the appeals catalyzed the formation of Zion as a religio-political Kingdom of God.

The political identity the saints adopted through these appeals was not associated with parties, but with principles and practices that drew on their religious and national history. The saints’ constitutional philosophy developed over time just as the church’s organization, structure, and theology had. By the time these appeals were published Joseph had created a growing network of ecclesiastical bodies and positions with a formal system of authorial rank. While the church had begun with six members, it had grown to thousands. New scripture, temporal and spiritual laws and practices, and temple rituals made the church a true and living church. In like manner, Joseph’s political institutions and teachings grew and evolved, his philosophy on the Constitution and religious freedom becoming an elastic canopy with the ability to adapt to the changing circumstances of the people under its branches. Mormon reminiscences about their national heritage of independence, freedom, and government for the people in these appeals connected their religious history to a larger framework of American religion that emphasized the original religious-like character of the country that united the people to a righteous cause. By refocusing their religious mission to reflect that of the national mythos, these appeals sought to engage citizens of the various states in another American Revolution that would restore and strengthen national commitment to religious freedom.

**Memorial to Congress**
In the midst of these appeals, Orson Pratt traveled to Washington D.C. to get the saints’ second memorial presented to Congress. In addition to describing their persecution in Missouri, the saints also included the act to incorporate the City of Nauvoo to show the saints’ legal and legitimate standing and their right to act as citizens, and then moved beyond requesting financial redress, seeking demands that, if granted, would give the Federal Government direct jurisdiction over the saints, thus circumventing the authority of states’ rights. As the editors of the Joseph Smith Papers point out, “[t]his memorial represented a significant shift in the Saints’ strategy, wherein they went beyond seeking financial redress for past wrongs and actively worked to safeguard the people of Nauvoo against future persecution and violence.” Their requests acknowledged that redress for past grievances, which they had previously pursued as an absolute necessity for the establishment of universal freedom, was beyond their control. Rather than continue to sue for rectification of past wrongs, they decided to look ahead to proactive solutions to protect them against future mistreatment. The saints requested that Nauvoo be granted territorial status, that the mayor be given authority to call on Federal troops, and the Nauvoo Legion be under Federal privilege in terms of regulations and pay. While unorthodox, this proposal showed the saints’ creativity, flexibility, and their commitment to freedom over tradition.

**Joseph Smith for President**

This shift in strategy compelled Joseph to run for President of the United States. Having seen the repeated failures of the government to help the saints, Joseph took upon himself the role of one who would guarantee the protection of his people if elected and no longer complain about

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an imperfect government, instead focusing on creating a progressively better one. His presidential campaign platform, “General Joseph Smith’s Views on the Powers and Policy of the Government of the United States,” was published in February 1844 and sent to every political leader in the federal government. It proposed a systematic reform of most major institutions, ultimately aiming to increase and restore religious, as well as penal, fiscal, domestic, and territorial freedom. We see in “Views” Joseph’s aspiration for an entirely new system of government truly based on the principle of freedom for all that was espoused by the Declaration of Independence and the Constitution but had been eroded by those in power. The pamphlet began similarly as the appeals, drawing on the revolutionary heritage of America and its founding principles of virtue.

The proposals in “Views” set forth both modified views of other politicians of the time and radically reimagined social reforms. Joseph explicitly stated his desire to empower the federal government to be able to override any oppressive or unjust actions of the states and proposed to give the President full power to send an army to suppress mobs. Overall, “General Smith’s Views” described a restructuring of government institutions to empower the people to exercise and obtain the greatest amount of civil and religious freedom.100 Joseph was willing to procure freedom at any cost, even if it meant replacing the Constitution entirely. Of supreme importance was the freedom of all, not just the majority, to believe according to conscience and to act in accordance with it. Thus, Joseph wanted to create a governing system that would more

perfectly assure universal freedom, especially for those who were not strong enough to seize it through their own means.

W. W. Phelps, who authored the pamphlet for the prophet, used phrases in multiple languages, gave a brief history of the nation and the status of religious freedom as a reality, and offered innovative reforms to American institutions to portray Joseph as a learned champion of freedom. His call for an American President, as opposed to a partisan one, further cast Joseph as a citizen without prejudice and in the best position to preserve and restore the freedom of conscience and religious exercise. As one who suffered from injustice at the hands of the government, Joseph rhetorically claimed a unique positionality as the epitome of American progress through strict adherence to the principles of virtue. Thus, having risen to renown in American society through a passionate love of liberty, he would lead the United States to its glorious destiny. Just as he had promised the first saints in Independence, Missouri that it would achieve its potential as the land of Zion, Joseph stood now at the peak of American political prominence to show America the way to freedom and peace.

Joseph’s transition from town visionary, church founder and prophet, to municipal and military official, to presidential candidate was a living process of complex growth that changed in purpose and scope over time. Likewise, his understanding of religious freedom evolved from a naïve expectation of merit to an aspiration of creativity over a process of development. The Constitution had also changed from a friend to liberty, to a divinely inspired document, and a steppingstone to religious freedom. As humans could increasingly become more like God, so American democracy could expand to become holy and reach its perfected state. The living character of the Constitution made it possible to restore and reveal the fullest expression of religious freedom, and Joseph sought to realize it in every conceivable way in contrast to the
stagnant, uncompromising way the federal government excluded the saints from the religious
devotions granted in the first amendment of the Constitution.

**The Political Kingdom of God**

The saints had experienced seven years of unconstitutional hostility in Missouri; if not of the federal constitution, then at least of the state constitution. In a letter published in the *Nauvoo Neighbor*, the saints made the case that the Missourians had violated their own constitution in that none should “be deprived of life, liberty, or property, but by the judgment of his peers, or the law of the land.” Additionally, they cited how the punishment for waging war against fellow state citizens had not been enforced. By publishing this statute, the saints argued that if making arguments for the federal enforcement of religious liberty fell on deaf ears because of federal officeholders’ belief in states’ rights, then arguments showing the aggressors’ unlawful actions according to their state constitution would hold more weight in the political realm. While this “Friendly Hint to Missouri” made claims against Missouri vigilantes, it also appealed to the larger population of Missouri who innocently read of these events from afar. The article, along with another published in the *Times and Seasons*, spoke of the saints’ desire to show friendship, humanity, and love, even to their enemies, which tended to be much more effective at resolving social conflicts than violence. The Mormons explained they were more than willing to forgive the Missourians of their persecution if the many good people of their state would gather to compensate them and if the government of Missouri would follow their own constitution and not deprive them of life, liberty, and property.

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The failure of every government official, entity, and body to take care of the saints; their efforts to construct a temple and hotel in Nauvoo; and their new conceptions of the Constitution and religious freedom created conditions for Mormon leaders to discuss at length. Beginning in March 1844 Joseph gathered his closest and most trusted associates and organized them into a quasi-political body to discuss their options outside the United States. One of the first items of business recorded by William Clayton stated the agreement of members upon going “to look to some place where we can go and establish a Theocracy either in Texas or Oregon or somewhere in California &c. The brethren spoke…of forming a constitution which shall be according to the mind of God."\(^{103}\)

Clarifying the latter statement, Clayton recorded in the Council minutes on 19 March “[O]n Monday 11\(^{th}\) it was resolved to draft a constitution which should be perfect, and embrace those principles which the constitution of the United States lacked,…”\(^{104}\) While the saints had expressed their frustration with the limits of the Constitution before, and they shifted their focus to building Zion as opposed to viewing America as the land of liberty, this task to write a new constitution could be taken as treasonous and anti-American if not kept secret. This body, conveniently referred to as the Council of Fifty, but officially known as “The Kingdom of God and his laws, with the keys and power thereof, and judgment in the hands of his servants, Ahman Christ,” was under an oath of “eternal secrecy,” without the possibility of sharing details even with their wives. In addition to drafting a new constitution, the council discussed political


matters in a religious context, theorizing new structures and forms of government based on biblical logic.

During the council’s discussions, Joseph clarified their purpose. In a meeting on 11 April 1844, Joseph expounded on his earlier claim that the Constitution lacked certain principles. He explained that the only things the Constitution lacked were a guarantee of the rights and principles it implicitly espoused and the armed forces being compelled to enforce equality and freedom. Speaking of the importance of religious tolerance, he explained that a spirit of bigotry and intolerance must never take root in their hearts and a man’s religious opinions should never be called in question in political transactions. These statements seem to confirm the stance of the church on laws and government from 1835, wherein they supported a separation of church and state. Joseph here seems to identify the weakness in the establishment clause of the first amendment as much as the exercise clause. However, as the council secretly sought to establish their own theocratic government, this systemic flaw also compelled them to use the unofficially, yet brutally true reality of religious establishment for their own good. Theocracy for Joseph consisted of exercising all the intelligence and light of the council, and letting God approve the resolutions: to acknowledge the voice of God and see it executed.

Conclusion

From 1831-1838, physical violence and persecution from Missouri mobs had forced the saints to seek for legal protection resulting in the saints being driven from Missouri and Joseph being imprisoned in the Clay County Jail in Liberty, Missouri. Then from Spring 1839 to

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Summer 1844, political apathy and electoral manipulation left the saints to their own devices to protect their Constitutional rights of religious freedom. In this process, the saints progressively identified the weaknesses of Constitutional interpretation that enabled the official corruption and abandonment of the Constitution itself. They also came to see the Constitution as an absolute anchor for religious freedom. As the saints continued to apply to the federal government for aid and restored justice, they adapted their strategies for obtaining religious freedom to the political opportunism practiced by the leaders of government at the state and federal level. However, as the saints began to gain political influence, those who opposed them increasingly sought to shut them down and silence them.

Seen as threatening the very foundations of democracy, the mixing of political and religious motivations and methods to pursue Constitutional rights upset American politicians who did no less political bartering to achieve their own self-interest. However, since the Latter-day Saints formed a religious community, their engagement in American politics was ultimately to serve religious ends, and the failure of the Constitution to grant them their religious desires led them to correct democracy by adding theocratic elements. After implementing every political and legal resource available to them to guarantee their religious freedom, the saints moved beyond the jurisdiction of the United States to conceive of religious freedom in an entirely new way that replaced the weak and unenforceable American Constitution with a perfect one that included the principles it lacked.

Joseph never stopped believing the Constitution was inspired. He made more comments about its inspired character after Liberty Jail than before. However, what changed from before was his creation of a systematic political philosophy that accompanied a growing theology about man’s potential for Godhood. The Constitution, like a person, could become God-like in its
perfection if given the environment to reach the end of its creation. The creation of church bodies
and councils and the creation of ordinances and rituals constituted the religious component of a
larger effort to build a Zion society that included a political component that both supported and
transcended the democratic political order. Joseph Smith’s campaign document ultimately was
prophetic. Most of the reforms he called for happened by the first decades of the twentieth
century. This demonstrated that although Joseph’s political efforts to obtain religious freedom
largely failed during his lifetime, the religious aspect of his Constitutional theory outlasted and
vindicated it.
CONCLUSION

The Constitution written in Committee of the Council of Fifty was ultimately rejected because, like the Constitution of the United States, it was not perfect. After the body of the council took issue with several aspects of the constitution, Joseph designated the council itself as the living constitution of the Kingdom of God. This designation manifested Joseph’s final iteration of Constitutional theory that would enable the ongoing process of religious freedom and fulfill the original purposes for which America and the Constitution were founded under God’s divine guidance. Two years earlier, Joseph had formed the women of the church into the Relief Society with the presidency of the organization designated as the Society’s constitution. Now he expanded that idea to include the entire Council of Fifty as a living constitution.

Whereas after Liberty Jail, Joseph understood the living United States Constitution to be an expansion of the textual and rhetorical scope of the document itself; by referring to people as the living constitution, Joseph made the phrase literal and bestowed it with an urgency to preserve and pass on. This final iteration of the Constitution had implications for religious freedom as well. No longer was religious freedom something to be obtained like an inanimate or abstract idea. Now religious freedom was a living, breathing experience that required constant vigilance to keep alive and preserve for as long as possible. It would not be possible to survive as a people or as a nation without the sustaining influence of religious freedom in the fundamental structure of society. Religion and government could not be decoupled but must be joined in healthy ways to balance out the extreme poles of states’ rights and religious establishment.

However, as the saints continued to strengthen the Nauvoo Charter and justify the prevention and swift action to stop any action that would diminish their freedom, political officials and cultural and social enemies would again act illegally to seemingly defeat the
Mormon cause once and for all. These events resulted in the brutal murder of Joseph Smith and his brother Hyrum. By killing the Mormon prophet, the mobbers thought they could kill the religious and political life of Mormonism itself, and by extension the Constitutional right of religious freedom for thousands of citizens. Even though they disagreed as to the extent of the Constitution’s reach, saints and cynics alike believed in the living essence of freedom.

Joseph’s evolving ideas about religious freedom and its connection to the Constitution of the United States reflect his changing approaches and methods for realizing it. Joseph was forced to think of religious freedom in new ways and think of new methods to obtain it because the democratic system had made living his religion impossible. If the Constitution had been sufficiently strong to provide all religious people the same protection against intolerant bigotry, Joseph and the saints would have had no need to seek for it and their history would have been very different. Conversely, because Joseph was compelled to think about the meaning of religious freedom many times over the course of a decade and a half, he was able to more clearly articulate a theology of Zion that fulfilled the ends of religious freedom.

Throughout this thesis, I have argued that Joseph developed a doctrine of religious freedom through several phases of incremental growth. Initially he saw the Constitution as inherently and sufficiently able to grant religious freedom. Thus, Joseph relied on it as the source of liberty. His second phase manifested a swing of the pendulum to the other extreme, where he relied on his own ability to create religious freedom by expanding the scope of the Constitution. Finally, Joseph sought to balance these two extremes and mutually reinforce the Constitution by theorizing a new form of government that combined religious principles with Constitutional Democracy. His ultimate objective was to create a Zion society where people of all religious beliefs would live together in harmony and peace. This would be accomplished by continually
refining the Constitution to better exemplify the transcendent principles of freedom. By balancing church and state, rather than separating them, true religious freedom would be restored and reach its fullest expression.
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