CONSTITUTIONAL LAW

As a people, the Latter-day Saints are committed to sustaining constitutional government as the best instrument for maintaining peace, individual freedom, and community life in modern society. This commitment is reinforced by their scriptures, which affirm that constitutional law “supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before [the Lord]” (D&C 98:5). The scripture cited further explains that not only has God made people free by giving them agency, but “the law also maketh you free” (verse 8). Furthermore, any standard other than constitutional law “cometh of evil” (verse 10). This principle applies not only in the United States of America, but wherever Latter-day Saints might live throughout the world. However, Latter-day Saints everywhere believe also “in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law” (A of F 12).

Latter-day Saints have both contributed to, and benefited from, laws and American constitutional law. The Constitution of the United States of America made the restoration of the gospel possible because it limits governmental power, protects individual rights, and sets a moral tone tolerating controversial religious views and rights of expression and assembly. LDS belief in the divine origin of the Constitution contributes to respect for the document.

The majority of the main events associated with the restoration of the Church occurred in the United States. Its message was controversial and provocative, and without the protections of the United States Constitution, the Church likely would not have survived. President Wilford Woodruff taught that at that time the United States of America was the only place where the Lord could have established his Church and kingdom (JD 25:211). President David O. McKay, in the dedicatory prayer for the Los Angeles Temple, expressed gratitude for the Constitution and for the fact that it made the establishment of the Church possible (IE 59 [Apr. 1956]:226). This idea is expressed frequently by Latter-day Saints and is more than patriotic rhetoric; a brief examination of the U.S. Constitution shows why.

The United States was especially hospitable to the restoration of the Church because its Constitution limits governments, both state and federal, thereby protecting individual rights. It limits governmental power in two ways: through two structural features commonly referred to as the separation of powers and federalism and through a series of express prohibitions.

The separation of powers refers to the division of governmental power on a horizontal plane among the three distinct branches of the federal government—legislative, executive, and judicial. Federalism divides governmental power on a vertical plane between the national government and the state governments. The separation of powers and federalism, by allocating governmental powers among several entities and by making each of these entities a competitor with the others, minimize the likelihood that government will trample individual rights.

The most famous of the express prohibitions against governmental action are contained in the first eight of the ten amendments to the Constitution that make up the Bill of Rights. By themselves, these provisions had been interpreted to apply only to the federal government, but the Fourteenth Amendment has now been held by the U.S. Supreme Court to make most of those Bill of Rights guarantees binding on state governments as well (see CIVIL RIGHTS). Because the Bill of Rights and the structural provisions of the Constitution protect individual rights against government intrusions, Latter-day Saints and other religious groups have been its distinct and identifiable beneficiaries.

Beyond its limitations on government, the Constitution sets a moral tone tolerating controversial religious views and rights of expression in general. This tone extends beyond its immediate impact on government. Without it, the public opposition to the Church, combined with the zeal of its adherents, might have brought about its demise. That Joseph Smith was born soon after the adoption and ratification of the Constitution is no coincidence in the LDS view.
On November 28, 1843, the Church petitioned the United States government to help members obtain relief from their unconstitutional losses of property at the hands of mobs and the Missouri state militia, partly as a result of an executive order. This petition was signed by 3,419 people, including Joseph Smith, Hyrum Smith, Brigham Young, John Taylor, Orson Pratt, and Heber C. Kimball as Nauvoo city officials. The federal government took no action in what was then considered a matter outside federal jurisdiction.

Latter-day Saints have participated significantly in the development of American law dealing with constitutional protections of civil rights. The starting point for modern constitutional analysis of First Amendment freedoms—including not only the free exercise of religion but all First Amendment rights—is provided by Reynolds v. United States (98 U.S. 145 [1879]), which involved the prosecution of a nineteenth-century Church leader for practicing polygamy. Reynolds was the first Supreme Court interpretation of the First Amendment. It draws a distinction between beliefs, which it holds are absolutely protected by the First Amendment, and conduct, which it says enjoys no protection.

That distinction between belief and conduct is still the cornerstone of First Amendment analysis. The first half of it (absolute protection for belief) is still good law, though the second half (no protection for conduct) is not. The present rule for religiously motivated conduct, which was not clearly developed until almost a century after the Reynolds decision was handed down, is that government actions adversely affecting religious behavior are prohibited by the First Amendment’s free exercise clause unless government can show that its actions are based on a compelling state interest and that its regulation or other infringement is narrowly tailored to the achievement of that objective (Wisconsin v. Yoder et al., 406 U.S. 205 [1972]). The test strongly favors individual rights over government interests and is therefore conducive to RELIGIOUS FREEDOM. It is also a test from which the Church has benefited.

As a group, Latter-day Saints in the United States are deeply patriotic. They sustained the Constitution even when, in times of severe persecution, some of its protections were denied them. Partly because of the Church’s history and partly because of their unique understanding of the nation’s origins, most Latter-day Saints in the United States accept the responsibility to study and understand their Constitution as being rooted not only in patriotism but in religion as well. The devotion of the Church and its leaders to the Constitution can be traced to early times. Doctrine and Covenants 134, “A Declaration of Belief Regarding Governments and Laws,” adopted by unanimous
vote at a general assembly of the Church held at Kirtland, Ohio, on August 17, 1835, is a vigorous statement on the importance of preserving individual rights, particularly those relating to religious and other expressive freedoms. As expressed by one Church President, Latter-day Saints "have a tremendous obligation to be good citizens, to uphold the Constitution of this land, to adhere to its basic concepts" (Benson, pp. 615–16; see also POLITICS: POLITICAL TEACHINGS).

Another aspect of the LDS understanding of the Constitution is the belief gained from scripture concerning its divine origins, which enhances Latter-day Saints’ respect and even reverence for the document, particularly in the United States. The Lord revealed to Joseph Smith, "And for this purpose have I established the Constitution of this land, by the hands of wise men whom I raised up unto this very purpose" (D&C 101:80; cf. 3 Ne. 21:4). Some Church members espouse a view which goes beyond this scriptural language, esteeming the Constitution beyond criticism and as near scriptural. What the scripture in fact says is simple, informative, and understandable: this remarkably successful document did not emerge by chance or human wisdom alone. God had a hand in its creation—not in the same, direct, revelatory way that he creates scripture, but by assembling and inspiring, at the one crucial point in American history when it was sorely needed, probably the most talented collection of statesmen with which any nation has ever been blessed.

BIBLIOGRAPHY

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CONSTITUTION OF THE UNITED STATES OF AMERICA

While LDS scripture reinforces the traditional Christian duty of "respect and deference" to civil laws and governments in general as "instituted of God for the benefit of man" (D&C 134:1, 6), Latter-day Saints attach special significance to the Constitution of the UNITED STATES OF AMERICA. They believe that the Lord "established the Constitution of this land, by the hands of wise men whom [he] raised up unto this very purpose" (D&C 101:80). The Prophet Joseph Smith once described himself as "the greatest advocate of the Constitution of the United States there is on the earth" (HC 6:56–57). All of his successors as President of the Church have reaffirmed the doctrine of an inspired Constitution. This consistent endorsement is notable, for basic LDS teachings are far removed from the premises of American liberalism, and largely as a result of these differences, Latter-day Saints suffered considerable persecution before achieving an accommodation with mainstream America.

The idea of an inspired Constitution is rare in contemporary public discourse and wholly absent from contemporary constitutional and historical scholarship. Seeking to discern the hand of divinity in America's beginnings, however, was once common not only in popular rhetoric but also among eminent nineteenth-century historians such as George Bancroft. Perhaps even more important is the repeated acknowledgment of divine aid by America's founding fathers. Notably, George Washington frequently expressed gratitude to God for felicitous circumstances surrounding the rise of the United States and chose the occasion of his first inaugural address to recognize the providential character of the framing of the Constitution:

No people can be bound to acknowledge and adore the invisible hand which conducts the affairs of men, more than the People of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency. And in the important revolution just accomplished in the system of their united government, the tranquil deliberations and voluntary consent of so many distinct communities, from which the event has resulted, cannot be compared with the means by which most governments have been established, without some return of pious gratitude, along with an humble anticipation of the future blessings which the past [blessings] seem to presage [W. Allen, ed., George Washington: A Collection, p. 461. Indianapolis, Ind., 1988].

LDS teaching and revelation are in harmony with this self-understanding of the founding generation. Latter-day Saints believe that the Lord established