

A CENTURY OF MORMON THEORY AND PRACTICE IN CHURCH-STATE RELATIONS: CONSTANCY AMIDST CHANGE

W. Cole Durham, Jr.^{*}
Nathan Oman^{**}

Introduction

The past century has seen dramatic change for The Church of Jesus Christ of Latter-day Saints—the “LDS” or “Mormon” Church. Only slightly over a century ago, the Church was floundering under the remorseless persecution of the federal government, and had just reached the end of the polygamy era. Over the intervening century, the Church has become acclimatized and accepted in the United States. It has experienced extraordinary growth both in the United States, where it is now the sixth largest denomination,¹ and abroad, where the majority of its more than 11,000,000 members now reside.² This growth has affected all areas of life within the Church, including the theory and practice of church-state relations. In the limited space available here, our aim is to give a brief picture of the change, and at the same time, to identify the constancy of underlying principles that can be seen beneath the surface of changing circumstances.

^{*} Susa Young Gates University Professor of Law and Director, BYU International Center for Law and Religion Studies, Brigham Young University; A.B. Harvard College, 1972; J.D., Harvard Law School, 1975. The authors wish to express appreciation to Elizabeth Clark, Timothy Rodriguez, and Amy Bennett for assistance with research and editing of this article.

^{**} B.A., Brigham Young University, 1999; J.D. Candidate, Harvard Law School, 2003.

The authors are writing in their individual capacities, and the views reflected in this article are solely their own. We are acutely conscious of the extensive literature addressing issues covered by this paper, and that Mormon historians could add extensive detail to almost every line that has been written here. We hope that nonetheless the overview that we provide will be a useful introduction to the subject.

¹ Wright, John W., ed., *New York Times 2001 Almanac* (New York: Penguin 2000), 404.

² Deseret News, *Deseret News 2001-2002 Church Almanac* (SLC: Deseret News 2000), 572.

Overview of the Transformation

In 1890, the Mormon Church was an embattled and relatively small religion. Although the Church had been marked by explosive growth since its beginning 60 years earlier, its total population at the time was only 188,263. Church members were concentrated almost exclusively in Utah and the surrounding territories and states. The Church was pursuing an international missionary effort, but only sent out 283 full-time missionaries, concentrated mostly in the United States and Western Europe.³ Politically the Church was in perhaps the most precarious position of its history. After years of tangles with local governments and mobs, the Church was locked in a life or death struggle with the federal government.

Early LDS Church History

To appreciate the depths the Church had reached, it is necessary to view the situation in 1890 against the background of earlier Mormon history. Founded in 1830, the early history of the Latter-day Saints was defined by persecution, flight, and more persecution. For the first sixteen years, church members were driven successively to Ohio; Independence, Missouri; Far West, Missouri; and finally, to Nauvoo, Illinois. Each time they were forced from their homes by hostile and suspicious neighbors.⁴ Their final expulsion from Missouri followed issuance of the “extermination order” of Governor Wilburn Boggs, who had issued a directive that “the Mormons must be treated as enemies

³ *Id.* 585.

⁴See generally Allen, James B. and Glen M. Leonard, *The Story of the Latter-day Saints* (SLC: Deseret Book, 1992), 3-145; Arrington, Leonard J. and Davis Bitton, *The Mormon Experience* (New York: Knopf, 1979), 3-64; Berrett, William E. and Alma P. Burton, eds., *Readings in Latter-day Saint Church History from Original Manuscripts* (SLC: Deseret Book, 1953), 1:145-331.

and must be exterminated or driven from the state, if necessary for the public good.”⁵

After being driven from Missouri, the Mormons found temporary haven in Illinois. On the banks of the Mississippi, they founded the city of Nauvoo and obtained a charter from the state legislature that granted the city a quasi-independent status.⁶ Protected within their semi-autonomous city-state, Latter-day Saints prospered for a time. At one point Nauvoo was the largest city in Illinois, and at its peak in 1844 it had approximately 12,000 inhabitants.⁷ But this peaceful hiatus was temporary. Persecution began again. On June 27, 1844 a mob killed the founder and president of the Church, Joseph Smith, at Carthage, Illinois.⁸ By 1846 the Latter-day Saints had completely abandoned the state and begun their exodus to Utah.⁹

The Utah Period Prior to Statehood

Mormons commenced settlement of the Great Basin in what is now Utah in the summer of 1847. For ten years the Mormons in Utah enjoyed almost complete independence. But beginning in

⁵ Roberts, B.H., ed., *History of the Church of Jesus Christ of Latter-day Saints* 3:175 (SLC: Deseret News, 1905) (quoting text of the extermination order). See generally Roberts, B. H., ed., *A Comprehensive History of the Church*, (SLC: Deseret News Press, 1930), 1:240-243, 253-261, 314-369, 413-417, 448-518. For a discussion of the events in Missouri, see Gentry, Leland Homer, *A History of the L.D.S. in Northern Missouri From 1836-1839* (Joseph Fielding Smith Institute for Church History, 2000); LeSueur, Stephen C., *War in Missouri* (U. of Missouri Press, 1987); Johnson, Clark V., ed., *The 1838 Mormon Redress Petitions: Documents of the 1833-1838 Missouri Conflict*, (BYU Religious Studies Center, 1992); Roberts, B.H., *The Missouri Persecutions* (Bookcraft, 1965).

⁶ *A Comprehensive History of the Church* 2:53-57; see generally Roberts, B.H., *The Rise and Fall of Nauvoo* (Bookcraft, 1965).

⁷ Black, Susan Easton, “How Large Was the Population of Nauvoo?,” *BYU Studies* 35:2 (1995), 93. See generally *A Comprehensive History of the Church* 2:85; Victor H. Ludlow, ed., *The Encyclopedia of Mormonism* (1992), 990; Flanders, Robert Bruce, *Nauvoo: Kingdom on the Mississippi* (Urbana: U. of Ill. Press, 1965).

⁸ *A Comprehensive History of the Church* 2:254-307; Allen and Leonard 1992, 305; *Readings in Latter-day Saint Church History* 1:489-511.

⁹ Arrington and Bitton 1979, 83-105; *Readings in Latter-day Saint Church History* 2:1-198; *A Comprehensive History of the Church* 2:504-541, 3:1-24.

1856 forces were set in motion which would soon destroy the peace of isolation. In that year, the newly formed Republican Party ran John C. Fremont for president on a platform promising to eradicate “the twin relics of barbarism: slavery and polygamy.”¹⁰ First announced publicly in 1852, Mormons considered the practice of plural marriage to be a direct command from God, but to the rest of Victorian America it was an affront to religion, civilization, and family that had to be extirpated.¹¹ Fremont lost the election, but, in 1857, acting on false reports of a Mormon rebellion, President James Buchanan dispatched the United States Army to occupy the territory of Utah.¹²

Thus began the process of federal pressure that would lead to the events of 1890. In 1862 Congress passed the Morrill Anti-Bigamy Act,¹³ criminalizing polygamy in the territories. Over the next twenty-five years Congress passed a succession of increasingly harsh measures directed at the Mormons. Although these acts were ostensibly aimed at stamping out polygamy, they had the broader goal of destroying the unique political and economic order established by the Mormons in the intermountain west.¹⁴ Harking back to the Puritan ideal of a “City on a Hill,” the Mormons sought to establish what they called “Zion,” a society based on their interpretation of the Gospel and marked by

¹⁰ Allen and Leonard 1992, 305.

¹¹ See Ludlow 1992, 1091-95; *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* (SLC: The Church of Jesus Christ of Latter-day Saints 1981), § 132; Arrington and Bitton 1979, 185-205. For general discussions of the Mormon practice of polygamy, see Van Wagoner, Richard S., *Mormon Polygamy: A History*, (SLC: Signature Books, 1986), 61-156; Irvin, Stanley S., “Notes on Mormon Polygamy,” in Hill, Marvin S. and James B. Allen, eds., *Mormonism and American Culture* (New York: Harper & Row, 1972).

¹² See *A Comprehensive History of the Church* 4:181-400; Arrington and Bitton 161-184.

¹³ Chap. 126, 1-3, 12 Stat. 501-2 (1862).

¹⁴ See Van Wagoner 135; Firmage and Mangrum 210-260.

love, harmony, rough social and economic equality, righteousness, and divinely inspired leadership.¹⁵

Enemies of the Church, however, painted the Mormon Zion as an anti-democratic, un-American, and dictatorial theocracy. During the 1860's and 1870's, the federal government focused its efforts primarily on the "first relic of barbarism": abolishing slavery and reconstructing the South. But by the 1880's, the techniques of reconstruction were unleashed with a vengeance on Utah.¹⁶ The Mormons challenged the anti-polygamy legislation in court, claiming that it infringed on their first amendment right to free-exercise of religion. By 1879, however, they lost their appeal to the U.S. Supreme Court in *Reynolds v. the United States*¹⁷—the first major free exercise decision in U.S. history. Over the course of the 1880s pressure against the Church increased. Coming just after Reconstruction, the 1880s was a time when lawmakers, especially Republican lawmakers, felt very comfortable with using sometimes-harsh federal measures to coerce recalcitrant citizens into line. This period was known among Mormons as "the Raid."¹⁸ In 1882 Congress passed the Edmunds Act,¹⁹ making it easier to prosecute polygamists. Federal marshals and bounty hunters flooded Utah in a search for "polygs" and "cohab." Thousands of Mormon men (including most church leaders) were

¹⁵ See Ludlow 1992, 1624-26.

¹⁶ See generally *A Comprehensive History of the Church* 5:539-557, 6:21-227; Ludlow 1992, 52-53. For a general discussion of the legal campaign against polygamy, see Firmage and Mangrum 129-278; Edwin B. Firmage, "The Judicial Campaign against Polygamy and the Enduring Legal Questions," *BYU Studies*, 27:3 (Summer 1987), 91; Ray Jay Davis, "The Polygamous Prelude," *American Journal of Legal History* (1962), 6.

¹⁷ 98 US 145 (1879).

¹⁸ Arrington, Leonard J., *Great Basin Kingdom: An Economic History of the Latter-day Saints 1830-1900*, (Cambridge: Harvard U. Press. 1958), 353-379. For a sampling of Mormon views during this period, see Berrett and Burton 3:21-99.

¹⁹ Chap. 47, 1-9, 22 Stat. 30-32 (1882).

incarcerated or forced to go into hiding. All polygamists were disenfranchised.²⁰ Spousal immunity was abolished and wives were forced to testify against their husbands.²¹ Women's suffrage, which had initially been supported in an attempt to "liberate" Mormon women, was attacked and eventually revoked when it was found that Mormon women voted exactly like their male counterparts.²² Polygamists were excluded from public office, and in Idaho, all Mormons were disenfranchised, barred from jury duty, and completely excluded from political office.²³ The final blow came in 1887 when Congress passed the Edmunds-Tucker Act.²⁴ This law aimed at nothing less than the destruction of the Church of as an institution. The Corporation of the Church of Jesus Christ of Latter-day Saints was formally dissolved and the federal government confiscated all Church property in excess of \$50,000.²⁵ In addition the Perpetual Immigration Fund, which had been established early in the Utah period to help finance the immigration of Mormon converts from abroad, was dissolved and all of its property confiscated.²⁶

²⁰ *Id.*

²¹ *Id.*; see also *A Comprehensive History of the Church* 6:111.

²² *A Comprehensive History of the Church* 6:54-55 (discussing attempts to revoke female suffrage in the early 1880s). Female suffrage was abolished in Utah under the Edmunds-Tucker Act (see note 24). See generally Arrington and Bitter 229-230, Madsen, Carol Cornwall, "Schism in the Sisterhood: Mormon Women and Partisan Politics, 1890-1900," in Bitton, Davis and Maureen Ursenbach Beecher, eds., *New Views of Mormon History* (SLC: U. of Utah Press, 1987), 212-234; Madsen, Carol Cornwall, *Battle for the Ballot: Essays on Woman Suffrage in Utah, 1870-1896* (Logan, Utah: Utah State U. Press, 1997); Cannon, Heather Symmes, "Practical Politicians," in Bushman, Claudia L., ed., *Mormon Sisters: Women in Early Utah* (Logan, Utah: Utah State U. Press, 1997), 157-175.

²³ Allen and Leonard 1992, 399-407. See also *Davis v. Beason*, 133 U.S. 333 (1890), in which the Supreme Court upheld this law against constitutional challenge.

²⁴ 22 Stat. L. 635-41 (1887).

²⁵ *The Late Corporation of the Church of Jesus Christ of Latter-day Saints v. U.S.*, 136 U.S. 1 (1890); see generally Arrington 1958, 365-368; Allen and Leonard 413-414.

²⁶ Arrington 1958, 381-382.

During the course of its forty-year attempt to build Zion in Utah, the Church had become deeply involved in the economic life of the territory, financing fledgling industries in an attempt to make Mormonism economically self-sufficient. Many of these assets now flowed into the hands of the federal government, as did tithing funds. More importantly, the Edmunds-Tucker Act threatened the sacred Mormon temples with confiscation and desecration by federal officials. Forced to borrow money to meet its operating expenses, fight legal battles, and rent its property back from the federal government, the Church was sinking ever farther into debt, while its precarious legal status made it increasingly difficult to obtain the credit it needed to survive. And all the while the lawyers appointed as trustees by the federal government ate away the Church's assets in a free-for-all of attorney's fees.²⁷

In the face of this pressure, the Church relented. In October of 1890, then president of the Church Wilford Woodruff received a revelation in which he was shown the desperate situation of the Church and the need to abandon the practice of plural marriage. This led to the announcement that is known as the "Manifesto," which proclaimed that the Church was abandoning the practice of plural marriage.²⁸ With the end of plural marriage, animus against the Church slowly began to dissipate and federal pressure relaxed. The property of the Church was returned, and in 1894 President Cleveland issued an amnesty to all Latter-day Saints.²⁹ In 1896, Utah was granted statehood, and Mormonism

²⁷ See Arrington 1958, 360-79; Firmage, Edwin Brown and Richard Collin Mangrum, *Zion in the Courts: A Legal History of the Church of Jesus Christ of Latter-day Saints*, (Urbana and Chicago: U. of Ill. Press, 1988), 1830-1900, 197-209; Allen and Leonard 416-419; *A Comprehensive History of the Church* 6:193-200.

²⁸ *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints*, Official Declaration 1. See generally Ludlow 1992, 852-853; *A Comprehensive History of the Church* 6:210-229; Berrett and Burton 3:105-126.

²⁹ Allen and Leonard 1992, 422-23; Arrington 1958, 378; *A Comprehensive History of the Church* 6:200. See generally Alexander, Thomas G., *Mormonism in Transition* (Urbana: U. of Ill. Press, 1986), 3-15; Lyman, Edward L., *Political Deliverance: The Mormon Quest for Utah Statehood* (Urbana and Chicago: U. of Ill. P. 1986).

began its trek into the 20th Century.

The Church at the Beginning of the 21st Century

Today the LDS Church presents a very different picture, the defining characteristic of which is explosive growth. At the end of 2000, there was well over 11,000,000 Latter-day Saints throughout the world.³⁰ The huge increase in membership in the last one hundred years is the result of a massive missionary outreach. Today there are approximately 60,000 full-time LDS missionaries at any given time, and during the course of the 1990s they have won about 300,000 converts each year.³¹ In all, today there are 25,551 Latter-day Saint congregations around the world, speaking 175 languages.³² The distribution of this membership is also very different from 1890. A hundred years ago the typical Mormon was a second or third generation member living in Utah.³³ Today, the typical member is a recent convert living outside of the United States.

This has been the case since February 25, 1996. On that day the balance of Church membership tipped, with more members living outside the United States than inside.³⁴ The latest statistics indicate that there are now over 300,000 more Latter-day Saints outside the United States than inside.³⁵

According to sociologist Rodney Stark, if Latter-day Saints retain their current rate of growth, they “will soon achieve a worldwide following comparable to that of Islam, Buddhism, Christianity,

³⁰ Deseret News, *Deseret News 2001-2002 Church Almanac* (SLC: Deseret News 2000), 572.

³¹ *Id.* at 118, 270, 486.

³² *Id.* at 422; “Other Languages Surpass English,” *LDS Church News*, (Sept. 2, 2000).

³³ Ludlow 1992, 1525.

³⁴ Jay M. Todd, “More Members Now Outside U.S. Than in U.S.,” *Ensign* (March 1996), 76.

³⁵ Deseret News, *Deseret News 2001-2002 Church Almanac* (SLC: Deseret News 2000), 573.

Hinduism, and the other dominant world faiths.”³⁶ Stark admits that such predictions seem far-fetched, but he argues that the numbers bear his thesis out. Assuming a steady growth rate of 50 percent per decade (a rate which the LDS Church has exceeded for the last thirty years), by 2080 there will be 265,259,000 Latter-day Saints.³⁷ Even at a more conservative growth rate of 30 percent per decade, Stark predicts 63,415,000 Mormons in eighty years.³⁸ He thus argues that in Mormonism we can see one of the rare events of history: the rise of a new world faith.³⁹

Central Features of LDS Church-State Theory and Practice

Characterizing the central aspects of LDS church-state theory and practice here is difficult not only because of limitations of space, but also because of the inherent difficulties of communicating religious vision. How does one translate a century of experience into sound bites? How does one say things that will not be misunderstood?

At one level, LDS church-state theory has starting points that are familiar to other Christians. Mormons take seriously such biblical passages as Jesus’ enjoinder, “Render to Caesar the things that are Caesar’s, and to God the things that are God’s.”⁴⁰ Similarly, they are conscious of the plea in the Lord’s prayer, “Thy kingdom come. Thy will be done in earth, as [it is] in heaven,”⁴¹ balanced by the

³⁶ Rodney Stark, “The Rise of a New World Faith,” *Review of Religious Research* 26:1 (Sept. 1984), 18; see also Ostling, Richard N. and Joan K. Ostling, *Mormon America: The Power and the Promise*, (San Francisco: Harper, 1999), 372-385.

³⁷ Stark 1984, 22.

³⁸ Stark 1984, 22.

³⁹ Stark 1984, 18; cf. Jan Shipps, *Mormonism: The Story of a New Religious Tradition* (Urbana: U. of Ill. Press, 1985).

⁴⁰ Mark 12:17.

⁴¹ Matthew 6:10.

caveat that at least for now, “My kingdom is not of this world.”⁴² We are also mindful of the Master’s statement, “the kingdom of God is within you.”⁴³ Mormons believe deeply that the time will come when the risen Jesus Christ will come again and reign personally on the earth for a thousand years.⁴⁴ We join in Jesus’ prayer for that kingdom to come, but we join with some trepidation, because when we think honestly, we realize how unready we are. To summarize briefly, God’s kingdom is a kingdom freely chosen, a kingdom in which one’s freedom is radically expanded, but only through obedience to the laws that govern that kingdom, and only in ways that are generally consonant with “obeying, honoring, and sustaining the [secular] law”⁴⁵ ordained by the “powers that be.”⁴⁶ In short, the kingdom of God is a future kingdom, but a kingdom that we can pray for and strive to actualize in our private lives even now, although our successes are likely to be imperfect. In the meantime, we are obliged to “render unto Caesar the things that are Caesar’s,” and to obey the powers that are.

These ideas are partially summarized in the Church’s Articles of Faith. The eleventh article states, “We claim the privilege of worshiping Almighty God according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they may.”⁴⁷ This is balanced by the twelfth article of faith: “We believe in being subject to kings, presidents, rulers,

⁴² John 18:36.

⁴³ Luke 17:21.

⁴⁴ See *The Articles of Faith of the Church of Jesus Christ of Latter-day Saints* (SLC: The Church of Jesus Christ of Latter-day Saints, 1982), Art. 10.

⁴⁵ *Id.*, Art. 12.

⁴⁶ Romans 13:1; cf. *Doctrine and Covenants* 58:21-22 (“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. Wherefore, be subject to the powers that be, until he reigns whose right it is to reign, and subdues all enemies under his feet.”)

⁴⁷ *The Articles of Faith of the Church of Jesus Christ of Latter-day Saints*, Art. 11.

and magistrates, in obeying, honoring, and sustaining the law.”⁴⁸

A somewhat more detailed statement of the doctrinal position of the Church is contained in a document described as “a declaration of belief regarding governments and laws in general,” that is included as Section 134 of the *Doctrine and Covenants*, one of the key scriptural works of the Church:

We believe that governments were instituted of God for the benefit of man; and that he holds men accountable for their acts in relation to them, both in making laws and in administering them, for the good and safety of society.

We believe that no government can exist in peace, except such laws secure to each individual the free exercise of conscience, the right and control of property, and the protection of life. . . .

We believe that religion is instituted of God; and that men are amenable to him, and to him only for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others; but we do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; that the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul.

We believe that all men are bound to sustain and uphold the respective governments in which they reside, while protected in their inherent and inalienable rights by the laws of such governments; and that sedition and rebellion are unbecoming every citizen thus protected, and should be punished accordingly; and that all governments have a right to enact such laws as in their own judgments are best calculated to secure the public interest; at the same time, however, holding sacred the freedom of conscience.⁴⁹

What stands out in these provisions is a deep deference for law, combined with the recognition of the even deeper grounding of freedom of conscience.

LDS church-state theory is also grounded in a series of doctrinal notions that have a distinctive Mormon cast and that relate in various ways to the Mormon conception of ideal society. For us, the

⁴⁸ *Id.*, Art. 12.

⁴⁹ *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* § 134:1-2, 4-5.

highest imaginable type of society is to be found only in the after-life. In the Mormon understanding, this includes a much richer spectrum of degrees of glory than the traditional dichotomy of heaven and hell. For us, the highest degree of glory is to be found in life in community with God, in accordance with His laws. A second picture of ideal society is linked to the notion of life during Christ's millennial reign upon the earth, which will commence at some future historical time. In a sense, neither of these ideals is "of this world" as we presently know it. A third picture is more clearly linked to this world and is associated with the idea of Zion. In LDS thought, Zion can have two basic meanings. The first focuses on the personal characteristics of the inhabitants of a Zion society. It includes "the pure in heart."⁵⁰ A passage from LDS scripture describes the condition in this way: "And the Lord called his people Zion because they were of one heart and one mind, and dwelt in righteousness; and there was no poor among them."⁵¹ The second concept refers to some particular place where an ideal community based on obedience to the laws of God and governed by direct revelation from Him is to be found.⁵² These two concepts converge in the attempts of the Latter-day Saints to fashion an ideal community. The idea is thought to be attainable in a variety of settings—in political communities, in religious congregations, and within families. Of these, the family is the most significant and the most enduring. In Mormon theology, part of the highest degree of glory is that worthy families can be together forever.

The varying notions of ideal society are also linked to a third notion: the ideal of priesthood

⁵⁰ *Id.* § 97:21.

⁵¹ *The Pearl of Great Price* (SLC: The Church of Jesus Christ of Latter-day Saints, 1982), Moses 7:18.

⁵² Cf. *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* § 28:9; *The Pearl of Great Price*, Moses 7:19.

order. In the Mormon understanding, priesthood is the authority to act for God.⁵³ It is also the power by which God has created worlds,⁵⁴ and it is vital to the creation of social worlds. The Kingdom of Heaven, Christ's millennial reign, true Zion societies and family units sealed together for eternity are all ultimately unattainable without priesthood ordering. Such order flows hierarchically downward through divine channels from God, but at the same time, it is understood as an order of service and not domination. Probably the most significant single scriptural passage on the exercise of priesthood power in the Mormon canon is contained in a revelation to Joseph Smith, which provides:

No power or influence can or ought to be maintained by virtue of the priesthood, only by persuasion, by long-suffering, by gentleness and meekness, and by love unfeigned; By kindness, and pure knowledge, which shall greatly enlarge the soul without hypocrisy, and without guile— . . . [and when priesthood is thus exercised] . . . thy dominion shall be an everlasting dominion, and without compulsory means it shall flow unto thee forever and ever.⁵⁵

In short, ideal forms of society are simultaneously linked to notions of divine ordering and to free agency. They envision societies at all levels that have infinitely rich communal ties, but these ties are freely chosen and persist without unrighteous domination.

The yearning for Zion, which can be thought of as a shorthand term encompassing the various types of ideal community, lies at the core of LDS experience. It filled the pre-Statehood period, when the kingdom seemed near, "even at the doors." Needless to say, the cultivation of this ideal formed the doctrinal backdrop of what may be called the integrationist period of Mormon church-state theory and

⁵³ See, e.g., *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* §§ 68:2-4, 68:8, 107:8, 128:9.

⁵⁴ See, e.g., *The Book of Mormon* (SLC: The Church of Jesus Christ of Latter-day Saints 1982), Jacob 4:9; Hebrews 11:3.

⁵⁵ *The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* § 121:41-42, 46.

practice. When the Mormon community had “circled its wagons” against the outside, and was striving to settle the intermountain West, what was fundamentally going on was an effort to build “Zion societies.”

As one might expect, there is a rich store of speeches and writings on these issues by Church leaders and thinkers,⁵⁶ but there is not space to go into this literature here. It is fair to say, however, that the commentary that has emerged has unfolded in the context of and in response to historical exigencies. It has generally taken the form of reactions to concrete circumstances rather than formulation of abstract theory. For this reason, it makes sense here to focus on the shifting historical setting in which the Church has interacted with institutions of the State.

Historical Contours of Transformation of LDS Church-State Theory and Practice

Viewed in broad terms, the history of LDS church-state theory and practice exhibits a shift from an integrationist to a separationist or accommodationist perspective. That is, prior to 1890, life in the Church was highly integrated, and this high degree of integration extended to general mechanisms for social ordering that are generally associated with the state.⁵⁷ This is not entirely true, because of course, Mormonism existed in what was then the Territory of Utah, which was ruled by the federal government.

⁵⁶ See, e.g., Carmack, John C., *Tolerance* (SLC: Bookcraft, 1993), 95-106; Tullis, F. LaMond, ed., *Mormonism: A Faith for All Cultures* (Provo, Utah: BYU Press, 1978), 279-359; Gedicks, Frederick Mark, *The Rhetoric of Church and State* (Durham, N.C. and London: Duke Univ. Press, 1995); Arrington, Leonard J., Feramorz Y. Fox, and Dean L. May, *Building the City of God: Community and Cooperation Among the Mormons* (Urbana and Chicago: Ill. U. Press 1992); Jensen, Therald N., *The Mormon Theory of Church and State*, 1938 (Ph.D. dissertation, University of Chicago).

⁵⁷ There is a rich literature on this aspect of Mormon history. The leading text is Arrington, Leonard, *The Great Basin Kingdom* (Cambridge: Harvard U. P. 1958). See also Alexander, Thomas G., ed., *Great Basin Kingdom Revisited: Contemporary Perspectives* (Logan, UT: Utah State U. Press, 1991); O’Dea, Thomas F., *The Mormons* (Chicago: U. Chicago Press, 1957), 186-221; Poll, Richard D. et al., eds., *Utah’s History* 93-404 (Provo, Utah: BYU Press 1978); Bigler, David C., *Forgotten Kingdom: The Mormon Theocracy in the American West, 1847-1896*, (Spokane, Washington: The Arthur H. Clark Co., 1998).

The federal rulers were appointed from Washington, D.C. and were typically hostile to the Mormons. They were “separate” in the sense that enemy rulers are generally separate from the population they rule. The federal institutions in this sense were quite separate from and in general were hostile to the LDS Church.⁵⁸ Because of this situation, however, actual life within the Mormon community was even more highly integrated than it might otherwise have been. Real social ordering was governed by the Church. Disputes of all kinds were handled in church courts.⁵⁹ It was highly disfavored to go to the secular courts, manned by the “gentiles” (i.e., non-Mormons). To the extent that church members could succeed in electing people, it was quite common for church leaders to be elected to public office.⁶⁰ In the pre-Civil War days, before the moral fervor of Reconstruction focused on Utah, Brigham Young—the head of the Church at the time—was twice appointed as the territorial governor.⁶¹

The integrationist impulse was fostered not only by persecution, but also by the deeply held doctrinal beliefs regarding Zion. The aim of missionary work during this period was to gather church members and build a new “Zion,” an ideal community within which people would be “of one heart and one mind, and dwel[l] in righteousness” and where there would be “no poor among them.”⁶² This resulted in various efforts to organize economic life in highly communitarian ways. More radical

⁵⁸ See *A Comprehensive History of the Church* 3:506-508; Campbell, Eugene, “Pioneers and Patriots: Conflicting Loyalties,” in Bitton and Beecher, eds. 1987, 307, 311-321

⁵⁹ Firmage and Mangrum 12-24. For a general discussion of Mormon ecclesiastical courts, see *id.* at 25-47, 261-370; Swenson, Ryamond T., “Resolution of Civil Disputes by Mormon Ecclesiastical Courts,” *Utah Law Review* 1978:3 (1978), 573-595; Augustine-Adams, Kif, “The Web of Membership: The Consonance and Conflict of Being American and Latter-day Saint,” *Journal of Law and Religion* vol. 13 (1998-99), 577-602.

⁶⁰ *A Comprehensive History of the Church* 3:512-516; see generally *id.* 3:499-544.

⁶¹ *A Comprehensive History of the Church* 3:414-498, 509-512.

⁶² *The Pearl of Great Price*, Moses 7:18; see generally, *e.g.*, Van Orden, Bruce A., *Building Zion: The Latter-day Saints in Europe* (SLC: Deseret Book, 1996), 73-91; Arrington and Bitton, 36-39.

experiments, such as the Orderville experiment in which the entire community owned all things in common, did not survive.⁶³ But throughout the late 19th Century, there was a strong sense that social institutions should be developed which could help facilitate the transition to millennial society.⁶⁴

Today, in contrast, the Church tends to take a low profile in political affairs, except where it feels obligated to take stands on what it regards as moral issues.⁶⁵ Statements are regularly read in church meetings affirming that the Church takes no position on political elections or candidates.⁶⁶ Church members are encouraged to support leaders with wisdom and integrity and vote in accordance with their own consciences.

The transition from the integrationist to the more separationist approach was not always easy. In the early days after the Manifesto in 1890, there are many stories about church leaders being involved in politics and economic affairs.⁶⁷ Looking back with the benefit of historical perspective, many of the events can be understood as efforts to accommodate to American ways of life. Church leaders at the time were anxious for Utah to acquire statehood (attained in 1896), and to counter charges that

⁶³ Arrington, Fox, and May, 265-194; Arrington 1958, 293-349; see generally Allen and Leonard, 329-343; Arrington, Fox, and May; Stegner, Wallace, *Mormon Country*, 108-127 (New York: Hawthorne Books, 1942).

⁶⁴ See Arrington 1958, 5-35; *A Comprehensive History of the Church* 5:484-490.

⁶⁵ See Ludlow 1992, 1102-03 (discussing examples of the E.R.A., gambling, alcohol, and same-sex marriage); Richard D. Poll, "Utah and the Mormons: A Symbiotic Relationship," in Bitton and Beecher, 332-333 (citing the E.R.A., liquor control, gambling, and pornography); Gibbons, Francis M. *The Expanding Church: Three Decades of Remarkable Growth Among the Latter-day Saints 1970-1999* (Bountiful, Utah: Horizon Publishers and Distributors, Inc., 1999), 132-140 (discussing LDS Church stands on pornography, child abuse, gambling, racial equality, same-gender marriages, and the MX Missile, as well as non-moral issues on which the Church has declined to take a stand); Quinn, D. Michael, "The LDS Church's Campaign Against the Equal Rights Amendment," *Journal of Mormon History*, 25 (1994), 85; "Statement of the First Presidency on Basing of the MX Missile," *LDS Church News* (9 May 1981), 2.

⁶⁶ See Ludlow 1992, 4:1733 (reprinting one of these statements).

⁶⁷ Alexander 1996, 1-15.

democratic values and meaningful pluralism would be lacking in a region with a homogeneous religious population led by a hierarchical Church. Church officials have often been criticized for interfering in the early 20th Century on the side of the Republicans.⁶⁸ This did indeed happen, but it must be remembered at the time of statehood, political sympathies in Utah were fundamentally with the Democrats.⁶⁹ It was the Democrats who allowed Utah to acquire statehood; it was the Republicans who had conducted the Raid. At a number of points, Church leaders intervened in ways to help give the Republican party a footing. (A century later, the situation seems to have reversed itself.)

It is worth noting, however, that Church leaders have not always been able to exert their will. For example, Church leaders campaigned in favor of retaining Prohibition, but Utah was the state that secured ratification of the Amendment ending it.⁷⁰ Utah was very pro-Democrat during the New Deal, and supported it in many cases against the proddings in the opposite direction from Church leaders.⁷¹

Another example has to do with reapportionment issues in the 1950's. This is actually a case of restraint, despite some substantial pressure to intervene politically. At the time, members of the Council of the Twelve, the second highest body in the Church, were highly supportive of a proposal to have one Senator per county, and apportion the House proportionally. The President of the Church, however, allowed a statement to be published stating that "the Church takes no position with reference [to the proposed amendment]." He made some reference to the fact that when the Church was "in Missouri as

⁶⁸ See, e.g., Decker, Rod, "The LDS Church and Utah Politics," *Sunstone* 20:3, 36-40 (October 1997); Poll, 329; Alexander 1996, 16-36.

⁶⁹ See, e.g., Alexander, Thomas G., "Political Patterns of Early Statehood, 1896-1919," in Poll, 414-415.

⁷⁰ Decker 38-41.

⁷¹ Decker 41-42.

a minority group, they would certainly be opposed to political interference by some other church.”⁷²

The proposed amendment, which would have secured Mormon control of the Senate indefinitely, or at least until the Supreme Court’s reapportionment cases in the 1960’s, failed. This was an important incident, and signaled that the Church had moved substantially in the separationist direction.

In recent years, the Church has limited its political involvement to moral issues, including promoting religious freedom. The Church clearly takes a pro-life stand on abortion issues—albeit a substantially less radical position than is sometimes portrayed in the press. At the beginning of the 1990’s, the Utah legislature adopted what would now be viewed as a “restrictive” abortion law,⁷³ and was pilloried in the national press for doing so.⁷⁴ In fact, the legislation adopted was substantially modeled on the American Law Institute’s reform proposals from the 1960’s.⁷⁵ It is significant that the legislation proposed was not a Church initiative, though the legislation did coincide roughly with Church perspectives on abortion.⁷⁶

Other moral issues include the Church’s opposition to same sex marriage, opposition to efforts to introduce liquor by the drink in Utah, and opposition to legislation that would make lotteries permissible in Utah. The Church opposed the Equal Rights Amendment in the 1980’s—primarily

⁷² Quoted in Decker at 42; see generally Jonas, Frank J., “Reapportionment in Utah and the Mormon Church,” *Proceedings of the Utah Academy of Sciences, Arts, and Letters* 46:1 (1969), 19-20.

⁷³ L. 1991 (1st S.S.), ch. 2, codified at Utah Code Ann. §§ 76-7-301 to 76-7-318.

⁷⁴ See, e.g., “Roe Warrior: The ACLU’s Janet Benshoof Leads Abortion-Rights Charge and Prepares for Ultimate Showdown,” *Legal Times* (Dec. 2, 1991), 1 (describing attacks in national press against Utah’s abortion law); “If Scruples Won’t Let You Rest,” *The Record* (Dec. 8, 1991), T01 (noting boycott against Utah to protest its abortion law).

⁷⁵ *Model Penal Code, Proposed Official Draft (May 4, 1962)* § 230.3 (Philadelphia: ALI, 1962).

⁷⁶ See, e.g., Oaks, Dallin H. “Weightier Matters,” in *Brigham Young University 1998-99 Speeches* (Provo, Utah: Brigham Young University, 1999), 1, 3-4.

because of worries that constitutionalizing the right as proposed was likely to go too far and its potential impact on the family and respect for reasonable gender-based differences would be problematic.⁷⁷

The Church has also taken positions on legislation likely to directly affect its interests. Thus, the Church has concerns for protecting clergy-penitent privilege. It has taken positions supportive of legislation protecting tax exempt status for religious organizations.⁷⁸ During the 1990's, it was actively involved in supporting the Religious Freedom Restoration Act and the RFRA Coalition.⁷⁹ In general, the Church is much more confident today. Church leaders during the first half of the 20th century grew up in the period when the Church was under severe government-sponsored attack. Not surprisingly, they were acutely conscious of the risks of state-backed persecution, and were acutely aware of the importance of religious freedom. This historical memory has not been lost, but currently tends to take the form of strong concerns for protecting the free exercise of religion.⁸⁰ The array of perspectives on religion clause jurisprudence is mirrored within the larger LDS community, but it is probably fair to say that Church leaders incline toward "accommodationist" positions. That is, they oppose state funding of religious institutions or activities, both as a matter of principle and because of concerns about the regulatory strings that invariably follow such funding.⁸¹ They are comfortable with indirect forms of

⁷⁷See *supra* note 65.

⁷⁸ See Gibbons 135.

⁷⁹ "Elder Oaks Testifies before U.S. Congressional Subcommittee," *Ensign* 22:7 (July 1992), 78 (describing the testimony of Elder Oaks in support of the Religious Freedom Restoration Act). The Church of Jesus Christ of Latter-day Saints also filed an *amicus* brief in support of the constitutionality of RFRA in *City of Boerne v. Flores*, No. 95-2074 (U.S. Sup. Ct. 1996).

⁸⁰ See, e.g., Gedicks, Frederick Mark, "The Integrity of Survival: A Mormon Response to Stanley Hauerwas," *DePaul Law Review* 42:1 (Fall 1992), 167; Mangrum, R. Collin, "Mormonism, Philosophical Liberalism, and the Constitution," *BYU Studies* 27:3 (Summer 1987), 119.

⁸¹ See Oaks, Dallin H., "Separation, Accomodation and the Future of Church and State," *DePaul Law*

support made available equally to others, such as tax exempt status. And as indicated by their support for RFRA, they support granting religiously-grounded exemptions to neutral and general laws. Part of Mormon historical consciousness is the relative ease with which Congress in the late 19th Century was able to pass a variety of ostensibly neutral laws which in fact had the capacity to totally cripple the Church.⁸²

Impact of Internationalization of the Church

LDS perspectives on church-state relations have no doubt been strongly influenced by American assumptions. The overwhelming majority of the Church's leaders throughout its history have been United States citizens, and until 1996, the majority of the members of the Church lived in the United States.⁸³ But from the earliest days of LDS Church history, Church leaders have been sent abroad to guide and carry out missionary activity, and experience in foreign settings (including dealings with foreign governments) has formed a significant part of the life experience of most Church leaders.⁸⁴ Internationalization has been particularly notable since the end of World War II. David O. McKay, who became president of the Church in 1951 and served in that capacity until 1970, clearly took an international perspective, dedicating the first temples located outside the United States and Canada and spearheading the creation of stakes⁸⁵ in many foreign countries (a recognition of the growing maturity of

Review 35:1 (1985), 5, 16-21.

⁸² See generally Firmage and Mangrum 226-260.

⁸³ Jay M. Todd, "More Members Now Outside U.S. Than in U.S.," *Ensign* (March 1996), 76.

⁸⁴ See, e.g., Arrington, Leonard J., ed., *The Presidents of the Church* (SLC: Deseret Book, 1986); Gibbons, Francis M., *Dynamic Disciples: Prophets of God* (SLC: Deseret Book, 1996); Nibley, Preston, *The Presidents of the Church* (SLC: Deseret Book, 1974).

⁸⁵ A stake is a larger unit of church administration, roughly comparable to a diocese, and is composed of

the Church abroad).⁸⁶ In 1950, the Church was organized in fewer than 50 nations or territories.⁸⁷ At present, the Church has organized units in approximately 150 countries.⁸⁸ A number of internal administrative changes have been made in the Church over the last half-century to address this growth, but these have not fundamentally altered church-state relationships. What is evident is that as the LDS Church has expanded in the international arena, its attitude toward church-state issues has grown in sophistication and sensitivity as it has encountered a steadily growing number of regimes around the world.

A number of basic features of the approach taken by the Church have emerged. First, the Church takes seriously its obligation to respect the laws of each land that it enters, and to encourage its members to do likewise. As noted earlier, the Church may work in peaceful ways to let its voice be heard with respect to moral issues, including the protection of freedom of religion. But the Church will strive to obey existing laws, even when these seem to limit what would otherwise be normal activities of the Church. This includes complying with laws governing religious associations, which typically govern initial organization of the Church for legal purposes in a country. As stated by President Spencer W. Kimball, who led the Church from 1973-1985, the Church must always enter a country by “the front door.”⁸⁹

several wards, comparable to parishes.

⁸⁶ Ludlow 1992, 2:873.

⁸⁷ Ludlow 1992, 2:639.

⁸⁸ See Deseret News, *Deseret News Almanac*, 271-421.

⁸⁹ Spencer W. Kimball, *quoted in* Hickman, Martin B., *David Matthew Kennedy: Banker, Statesman, Churchman* (Salt Lake City: Deseret Book Company, 1987), 342.

A corollary of the general deference to law is a general attitude of political neutrality on the part of the Church. Part of reason for 19th Century persecutions suffered by the Church both in Missouri and Illinois derived from the fact that the Church at the time tended to throw its weight to one political party or another in ways that ultimately aggravated and estranged both sides.⁹⁰ The Church has long since learned to avoid that particular hazard. As stated in a First Presidency message read to all local congregations of the Church in 1988, “In this election year, we reiterate the long-standing policy of the Church of strict political neutrality, of not endorsing political candidates or parties in elections, and of not using Church facilities for political purposes, including voter registration.”⁹¹ Individual Church members, like other citizens in any country, are more or less free to espouse their own views and to advocate reforms through orderly processes. But on issues other than moral issues, the Church remains neutral, respectful of the differing cultural, historical and political settings in which it finds itself. Internationalization of the Church has underscored the wisdom of maintaining neutrality and steering clear of entangling political issues. In most countries, the Church is in a pronounced minority position with no significant political clout, and with a strong need for the tolerance of governments, their officials, and the larger society. Church involvement in political issues can be divisive within the Church, and in general is viewed as distracting the Church from its central religious mission.

From its beginning, the Church has taken seriously the great commission to take the gospel to all nations. This obligation has been reaffirmed by Church leaders in every decade since the founding of

⁹⁰ See Arrington and Bitton, 50-53.

⁹¹ First Presidency Letter dated June 9, 1988, *reprinted in* Ludlow 1992, 4:1733-34.

the Church in 1830.⁹² The major change over the past century is that as the magnitude of Church resources to engage in such efforts—primarily in terms of available volunteers—has grown dramatically. At all times since the founding of the Church, however, such efforts have been undertaken “to the extent of our capacity and our ability.”⁹³ Factors that have affected allocation of available resources among the nations of the world include (1) availability of basic religious freedom protections; (2) ability to establish legal entities necessary for acquiring or renting worship facilities and carrying out the religious mission of the Church; (3) relative restrictiveness of the legal regime; (4) apparent receptiveness to the gospel message; (5) needs of existing members for support and training; and (6) stability of governments and economies.⁹⁴

Thus, at this time, the LDS Church has no significant presence in China and in many Muslim countries. This is a reflection of a variety of factors, but most fundamentally reflects lack of basic religious freedom protections and a variety of other legal obstacles to entering these areas. One of the dramatic changes of the past decade has been the establishment of new church units throughout the formerly communist world, made possible by changing legal regimes in that part of the globe.⁹⁵ The last half of the 20th Century has also seen massive expansion of the Church in Latin America,⁹⁶ Asia,⁹⁷ and

⁹² Palmer, Spencer J., *The Expanding Church* (Salt Lake City: Deseret Book Company, 1978), 3-4.

⁹³ McConkie, Elder Bruce R., “To the Koreans, and All the People of Asia,” in Palmer 1978, 139.

⁹⁴ This is obviously not an exclusive list of factors. Bruce A. Van Orden identifies three factors: religious freedom, political and economic stability, and absence of war or serious strife. Van Orden, 318. We have added others.

⁹⁵ See, e.g., Browning, Gary, *Russia and the Restored Gospel* (SLC: Deseret Book, 1997); Biddulph, Howard L., *The Morning Breaks: Stories of Conversion and Faith in the Former Soviet Union* (SLC: Deseret Book, 1996); Monson, Thomas S., *Faith Rewarded: A Personal Account of Prophetic Promises to the East German Saints* (SLC: Deseret Book, 1996).

⁹⁶ See Cowan, Richard O., *The Church in the Twentieth Century*, (SLC: Bookcraft, 1985), 259-269.

most recently, in Africa.⁹⁸ These have been areas of great receptiveness to the message of the Church. In contrast, Church growth in Europe has been slow for many years,⁹⁹ but existing Church populations in that region undoubtedly need continuing support. For understandable reasons, the Church has been reluctant to assign missionaries to areas where dangers of persecution are high, or where war or civil strife is rampant. In a Church that assumes that God will be open such areas in His own due time, there is little incentive to expend resources unnecessarily and prematurely.¹⁰⁰

As the range of cultural and political settings in which the Church finds itself have proliferated, the Church has grown increasingly sensitive to cultural and legal differences. Church leaders have been anxious to stress that the message of the gospel is universal¹⁰¹ and can afford to shed its excess American baggage.¹⁰² Impressed by the spirituality of Church members in areas of the world where few extra materials beyond scriptures are available, Church leaders have been inclined to stress a “back to basics” message.¹⁰³ Moreover, the massive costs of translating church publications, lesson materials and training manuals into an ever-growing number of languages has forced careful thought about what

⁹⁷ See Britsch, R. Lanier, *From the East: The History of the Latter-day Saints in Asia, 1851-1996* (SLC: Deseret Book, 1998).

⁹⁸ See Morrison, Alexander B., *The Dawning of a Brighter Day: The Church in Black Africa* (Salt Lake City: Deseret Book Company, 1990); LeBaron, E. Dale, “*All Are Alike Unto God.*” (Orem, Utah: Granite Publishing and Distribution, 1998).

⁹⁹ See Cowan 260-261.

¹⁰⁰ Morrison, 57-67; Hinckley, Gordon B., *The Teachings of Gordon B. Hinckley*, (SLC: Deseret Book, 1997), 367-68.

¹⁰¹ Hinckley 1997, 368, 372-73.

¹⁰² Ludlow 1992, 2:639 (quoting Elder Boyd K. Packer).

¹⁰³ See, e.g., Monson 5.

aspects of the gospel message are most central and most in need of being transmitted, leaving open broader space for cultural differences.

Where legal regimes are more intrusive, the Church has been forced to curtail or modify some of its programs to comply with local legal requirements. David M. Kennedy, who had special responsibility for working on Church efforts to secure permission to enter as yet unopened countries in the 1970s and 1980s described the core range of freedoms necessary for Church operation as follows:

So long as the government permits me to attend church; so long as it permits me to get on my knees in prayer; so long as it permits me to be baptized for the remission of my sins; so long as it permits me to partake of the sacrament of the Lord's supper and to obey the commandments of the Lord; so long as the government does not force me to commit crime; so long as I am not required to live separately from my wife and children—I can live as a Latter-day Saint within that political system.¹⁰⁴

To this list it is necessary to add the right to designate and ordain local church leaders and sufficient freedom of movement for the training and supervision of church operations within a country.¹⁰⁵

Needless to say, the Church and its members prefer legal regimes in which it is possible to carry out the full range of Church programs and to live their religion to the fullest. However, the Church has been able to adapt effectively in a number of settings where legal and cultural restrictions must be dealt with. Fortunately, as global appreciation of religious freedom norms increases, and as the Church becomes better known and accepted, the number of settings in which such compromises are necessary is declining.

¹⁰⁴ Kennedy, David M., "More Nations than One," in Palmer 1978, 70.

¹⁰⁵ Gedicks, Frederick Mark, *Towards an LDS Understanding of Church Autonomy*, Report to the Second American/European Conference on Religious Freedom, Trier, Germany, May, 1999. We are indebted more generally to Professor Gedicks' paper.

As the size of the Church has grown, the diplomatic facet of church-state relations has naturally expanded. From the 1830s on, Church leaders have interacted with heads of state and other government leaders where opportunities presented themselves. Joseph Smith met with President Martin Van Buren in 1839; Lorenzo Snow, an apostle, presented a copy of the first British edition of the Book of Mormon to Queen Victoria in 1842.¹⁰⁶ Such efforts fell off during the 19th Century Utah period, but commenced again after Utah was granted statehood in 1896. Notable was the post-World War I European tour undertaken by two apostles, Senator Reed Smoot and John A. Widtsoe, which played an important role in helping to defuse anti-Mormon attitudes in Europe at the time.¹⁰⁷ As the Church continued to grow internationally after World War II, contacts with high-level state officials have proliferated. In general, such contacts have “created bridges of understanding as well as a personal relationship between Church and government leaders.”¹⁰⁸ In general, they are not designed or intended to fundamentally alter church-state relations, but rather reflect normal relations of courtesy and mutual respect between church and state leaders.

Of course, there are situations when the Church finds itself in the role of a petitioner, particularly when it is in the process of applying for various governmental approvals—whether this be to establish a legal entity in a country for the first time, to obtain visas for Church leaders, missionaries, or other volunteers, or to obtain more routine approvals such as land use permits. Most such interactions are handled in fairly routine ways, but some deserve special mention. Beginning in 1968, Elder Thomas S.

¹⁰⁶ Ludlow 1992, 1:382 (“Diplomacy”).

¹⁰⁷ Alexander 1996, 234.

¹⁰⁸ Gibbons 1999, 132.

Monson was assigned to supervise church work in the German Democratic Republic. His efforts over the next twenty years, together with those of many other Church members working under his direction, culminated in the construction of a temple and the opening of missionary work in that country even before the Berlin Wall came down in 1989.¹⁰⁹ Another unique and broad-ranging initiative involves the work of former U.S. Secretary of the Treasury David M. Kennedy as a special representative of the First Presidency and ambassador-at-large for the Church.¹¹⁰ Working directly with the First Presidency, he was given broad authority to work with governments in resolving problems that hindered the Church's activities, and he achieved remarkable successes in many countries around the world.¹¹¹

Kennedy's unique position was not continued past his eventual retirement, but the kind of diplomatic functions he performed have continued to be exercised by key Church leaders. President Gordon B. Hinckley, the current president of the Church, is a gifted diplomat in his own right. During the 1990s, the work of apostles Russell M. Nelson, Dallin H. Oaks, and Jeffrey R. Holland has been particularly visible in guiding interactions of the Church with government officials in the aftermath of the collapse of communism, as has the work of the successive area presidencies who have been responsible Church activities in the former socialist bloc.¹¹² In light of the growing visibility of the Church internationally, Church leaders have been able to play a significant pro-active role not only in securing official recognition for Church presence in virtually all former communist countries, but also in guiding

¹⁰⁹ Monson 1996.

¹¹⁰ Hickman 1987, 335.

¹¹¹ Hickman 334-65.

¹¹² See Van Orden 1996, 267-320.

Church contributions to the larger social dialogue concerning the implications of religious freedom for emerging church-state systems in many countries.

Autonomy as the Connecting Thread

To summarize, the past century has seen the LDS Church move from what was one of its lowest periods, at the end of the polygamy persecutions, to a time of unparalleled growth and broad acceptance. At the beginning of this period, Mormon society was just emerging from a time when there was a high level of integration between state and religious ordering systems. A century later, the Church is committed to strict neutrality in politics (except when it comes to moral issues) and to separation of church and state, albeit in an accommodationist mode that recognizes that non-establishment does not require banning religion from the public square and that free exercise sometimes calls for substantive accommodation of religious differences.

At first blush, this appears to be a rather remarkable transformation—almost a total reversal of attitudes on church-state issues. Our argument, however, is that in fact there has been remarkable stability of underlying principle, and that the apparent changes are merely the reflection of changes in the social environment. The connecting thread is the right of religious organizations to autonomy in their affairs. Without necessarily relying directly on the thought of Roger Williams, Church leaders have implicitly always agreed with his most fundamental insight that failure to separate church and state runs profound risks that the state may influence and ultimately corrupt religious institutions.¹¹³ This can take a variety of forms. Religious groups anxious to breach the church-state wall in order to accept funding,

¹¹³ See, e.g., Hall, Timothy H., *Separating Church and State: Roger Williams and Religious Liberty*, (Urbana and Chicago: Univ. of Ill. Press, 1998), 86-91; Miller, Perry, “Roger Williams: An Essay in Interpretation,” in *The Complete Writings of Roger Williams*, vol. 7 (NY: Russell & Russell, 1963), 6-7.

for example, fail to consider the regulatory strings that will almost inevitably follow.¹¹⁴ More subtly, the quest for state endorsement or support may distract religious organizations from their central missions, or from structuring their missions as they think best. Freedom to maintain doctrinal and organizational purity has always been vital to LDS leaders. In the LDS view, it is precisely such lost purity that made a restoration of original Christianity necessary.

The LDS view of the U.S. Constitution is connected with the idea of religious autonomy. Mormons believe that the U.S. Constitution was divinely inspired,¹¹⁵ and that among other things, its commitment to freedom of religion helped establish a society where restoration of the original Church of Jesus Christ could occur without undue state and social interference.¹¹⁶ As it turned out, there was a lot more interference and persecution than anyone would have wished, but there was sufficient freedom (despite intense persecution) for the religious movement to get off the ground. Stated differently, it was precisely because the constitutional and social setting in the United States made possible religious autonomy a realistic possibility that they were so significant to the restoration.

It is in the highly integrated communities of nineteenth century Utah that the autonomy theme at first seems most out of place. What is important to remember, however, is that the issue is *religious* autonomy. The Saints had moved to Utah in a desperate move to escape outside persecution and to be free to structure their community in accordance with their religious beliefs. Those beliefs included views

¹¹⁴ See Oaks, Dallin H., "Separation, Accomodation and the Future of Church and State," *DePaul Law Review* 35:1 (1985), 5, 16-21.

¹¹⁵ Reynolds, Noel B., "The Doctrine of an Inspired Constitution," *BYU Studies* 16 (Spring 1976), 315-40. This article documents LDS beliefs with respect to the U.S. Constitution, and also helps expand the notion of what "inspired" means in this context.

¹¹⁶ Oaks, Dallin H., "The Divinely Inspired Constitution," *Ensign* (February 1996).

about ideal social ordering which Church members felt free to attempt to implement in an aspirational and experimental way in the isolated mountain setting. Moreover, particularly in the 1870s and 1880s, as persecution by hostile federal officials intensified, Mormons were effectively driven to form their own mechanisms for social ordering in an effort to escape government-managed persecution. The integrated social institutions that emerged were thus an effort to assert religious autonomy.

Once statehood was granted and the most virulent forms of anti-Mormonism subsided, Church leaders did what they could to encourage a more traditionally American church-state structure. In part this was done to fulfill promises made at the time of statehood, and in part, it was done to help reverse adverse stereotypes about Mormons and to enhance credibility and legitimacy. At a deeper level, this reflected deeply held Mormon beliefs that American constitutional ideals and American tradition afforded the strongest bulwark for religious freedom yet fashioned in history. The sufferings during the nineteenth century persecutions constituted an anomaly—a betrayal of true American values. Attaining statehood helped to assure that such anomalies would not recur. Accordingly, the affirmation of more traditional American values constituted a return to normalcy and to traditional constitutional values which protected religious autonomy by separating church and state and assuring that excessive entanglement of the two would not occur.

The return to normalcy eventually brought with it full withdrawal of the Church from politics, except on moral issues. (The caveat is, of course, a reservation of the right to church autonomy and to freedom of speech on religiously sensitive issues.) Residual involvement of religious leaders in politics in the years immediately after statehood can be understood at least in part as an effort to help level the playing field in what had been a highly anti-Republican environment. To the extent that Church leaders

engaged in affirmative action to help foster pluralism, the compromise of church-state separation principles was arguably intended to help enhance political pluralism, thereby solidifying the American-style political and constitutional order that promised the best long-term protection of religious autonomy for the Church.

The withdrawal from politics, or stated differently, the commitment to political neutrality, is even more significant outside the U.S. It is simply not the role of the Church to keep up with all the shifts and currents in the politics of all the countries of the world. The responsibility of the Church is to teach certain core doctrines, help strengthen its members in their efforts to live in accordance with these doctrines, and to invite others to accept them, if they so choose. The effort to take sides on issue after issue would distract the Church from its mission, stir up animosities both within the Church and with outsiders, and runs the risk of attracting governmental anger. The Church cannot be neutral on issues of core doctrine and morality, but most issues are matters on which the Church can and should remain indifferent. Experience has shown that adhering to this posture makes it easier for governments of all stripes to respect religious autonomy of the Church in areas that are more significant.

The rise of diplomacy as a mechanism for managing church-state interactions is also a reflection of concern for autonomy. By its nature, diplomacy is necessarily contextual and prudential. But it is fair to say that its objective has generally been to secure expanded autonomy for the Church (and for others as well). In a sense, civilized interaction and dialogue is the only reasonable way to structure church-state relations. (Church-state separation has never meant that representatives of state and religious organizations are not even permitted to speak to each other to address issues and problems.) As the Church has become larger and more visible, it has grown in its ability to protect religious autonomy

through direct discussions with public officials.

In short, the past century has witnessed massive outer transformations in the structure of the LDS Community and the way it relates to state institutions. But the outer structural changes reflect remarkable consistency in commitment to principles of religious freedom. The importance of these principles—learned both at the core of Mormon doctrine and in the crucible of persecution—is vindicated again and again as the Church enters each new country. Religious autonomy is as vital to the flourishing Church of today as it was to the nearly extinguished Church of the late nineteenth century.