

# Joseph Smith, the Constitution, and Individual Liberties

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The theological impact of Joseph Smith today is not even questioned. But what of his secular contributions? Was the Prophet important, like Jefferson, for his political insights? What were his constitutional ideals? How important are they now? It is my intention in this essay to examine some possible sources of Joseph Smith's views on the Constitution and the importance of individual liberties, his contrasting of ideal and worldly societies, and his strategies for obtaining protection for the rights and liberties of his people. He did not achieve his political goals during his lifetime, but subsequently the essence of his political objectives has been largely realized.

Although Joseph Smith's love of freedom and interest in social justice were no doubt rooted at least partly in his childhood training and his life's experiences, I propose that scriptural sources were the taproot of his ideas and were central in the development of his constitutional writings.

The Book of Mormon conditionally promises that America is a choice land, a land blessed above all others, a land of liberty (2 Ne. 1:5–7). In addition, the Book of Mormon contains several meaningful discussions of political values. For example, there is the prophet-king Mosiah's comparison of the virtues and vices of monarchy with those of a democratic government. The ideal system, in Mosiah's view, would be to have just kings who would "establish the laws of God" (Mosiah 29:13), but the prospects of wicked kings prompted him to advocate a system of government where judges, chosen by the "voice of the people," would rule within constitutional guidelines and under the laws of God (Mosiah 29:25). The purpose of this system of government was to promote the well-being of the people. Mosiah declared:

And now I desire that this inequality should be no more in this land, especially among this my people; but I desire that this land be a land of liberty, and every man may enjoy his rights and privileges alike, so long as the Lord sees fit that we may live and inherit the land, yea, even as long as any of our posterity remains upon the face of the land. (Mosiah 29:32)

Fourth Nephi offers a model for an ideal society as contrasted with the nasty, brutish qualities found in most temporal political systems where force and coercion are hallmarks of the state. The ideal society of the Nephites was one in which “there were no contentions and disputations among them, and every man did deal justly one with another. And they had all things in common among them; therefore there were not rich and poor, bond and free, but they were all made free, and partakers of the heavenly gift” (4 Ne. 2–3). After two hundred years, however, class stratification crept into the society, greed and selfishness returned, “all manner of wickedness” developed (4 Ne. 27), and the ideal society came to an end.

Another scriptural glimpse of an ideal society is found in Moses:

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.

And Enoch continued his preaching in righteousness unto the people of God. And it came to pass in his days, that he built a city that was called the City of Holiness, even Zion. (Moses 7:18–19)

This society was in such contrast to the wicked, worldly societies, with their wars and bloodshed, that “the Lord said unto Enoch: Zion have I blessed, but the residue of the people have I cursed” (Moses 7:20). Enoch was privileged to walk with the Lord and behold generations of people who would dwell upon the earth. It was a vision of such human degradation that the scriptures record the Lord was indignant, the earth mourned, and Enoch wept. Enoch and all his people, however, “walked with God, and he dwelt in the midst of Zion; and it came to pass that Zion was not, for God received it up into his own bosom” (Moses 7:69).

Such scriptural contrasts of the governments of God and men could not fail to impress Joseph Smith. His concerns about the plight of humanity historically as well as the problems of the Saints in the existing political societies prompted speculative thinking on what could be done to improve society and how an ideal society might be achieved. In addition, inquiries of the Lord about problems had prompted revelations to Joseph on a variety of subjects, some of which addressed social, economic, and political themes. A prescription for the ideal society is found in the economic program called the law of consecration and stewardship, unfolded in a number of revelations:

And you are to be equal, or in other words, you are to have equal claims on the properties, for the benefit of managing the concerns of your stewardships, every man according to his wants and his needs, inasmuch as his wants are just—

And all this for the benefit of the church of the living God, that every man may improve upon his talent, that every man may gain other talents, yea, even an hundred fold, to be cast into the Lord’s storehouse, to become the common property of the whole church—

Every man seeking the interest of his neighbor, and doing all things with an eye single to the glory of God.

This order I have appointed to be an everlasting order unto you, and unto your successors, inasmuch as you sin not. (D&C 82:17–20)

Although the order was replaced with the law of tithing following the expulsion of the Saints from Missouri and not attempted again during the Nauvoo period of the Church, Joseph Smith did not depart from the essentials of fairness and justice included in the law of consecration and stewardship. Fundamental principles bearing on the inalienable and constitutional rights of man, the value and purposes of individual freedom, the divine factor in the establishment of the Constitution, and the responsibility of citizens in keeping government responsive and responsible to the people are included in sections 98 and 101 of the Doctrine and Covenants. Section 134, although not written by Joseph Smith, is in harmony with his ideas and was adopted unanimously by the body of the Church. It sets forth the following concepts regarding governments and laws: (1) the divine institution of governments; (2) governmental accountability to God as well as man; (3) the importance of just legislation and evenhanded administration of policy for the good of society; (4) the right of free exercise of individual conscience; (5) the right and control of property; (6) the obligation of government for the protection of life; (7) the separation of church and state; (8) the obligation of political obedience to just governments; and (9) the idea of limited government.

As Joseph Smith cogitated upon contrasts between the government of God, which constituted an ideal, and the governments of men, he concluded that the ideal society could only be achieved when the kingdom of God rules the whole world with Christ as its king. He realized, however, that there was human responsibility in establishing Zion and the kingdom of God. He also realized the importance of working for justice in the existing temporal society. In an address on 21 February 1843, he declared, “From henceforth I will maintain all the influence I can get. In relation to politics, I will speak as a man; but in relation to religion I will speak in authority.”<sup>1</sup> Experience had forcefully pointed up the political wisdom of the scriptural statement that “when the wicked rule the people mourn. Wherefore, honest men and wise men should be sought for diligently, and good men and wise men ye should observe to uphold” (D&C 98:9, 10). Each individual, therefore, had a responsibility to labor for good government.

Even when his own constitutional rights were denied, Joseph Smith never doubted that the Constitution of the United States was a divinely inspired document. How could he believe otherwise when he was the spokesman through whom the revelations on the Constitution were given? Following the expulsion of the Mormons from Jackson County,

Missouri, a fundamental principle of the gospel was brought forth in a revelation that pointed out the basic purpose of the Constitution: to protect the rights and liberties of the individual in a free society. The principle of free agency—so vital doctrinally to all people in order that they might prove their worthiness and return to God as celestial beings—is fostered by the free environment provided by the Constitution. The Lord declared that the Constitution had been established “that every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment” (D&C 101:78). In keeping with this principle, the revelation condemned slavery and every other interpersonal restriction of free agency: “Therefore, it is not right that any man should be in bondage one to another. 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, and redeemed the land by the shedding of blood” (D&C 101:79–80).

The Prophet looked to the Constitution as a “glorious standard” even in the most adverse conditions, such as during those trying months while a prisoner in the Liberty Jail. In such a situation, many men would have vilified the Constitution as a document filled with hollow promises. But the Prophet became more dedicated than ever to fight for the rights of the Saints. In a letter written between 20–25 March 1839, he admonished the Saints to gather a knowledge of all the “facts and sufferings and abuses put upon them” and also the amount of damages they had sustained, that this information might be published and brought before governments. The letter concludes with a reaffirmation of Joseph’s faith in the Constitution—that it is not only a “glorious standard” but is on the level of holy writ:

We say that God is true; that the Constitution of the United States is true; that the Bible is true; that the Book of Mormon is true; that the Book of Covenants is true; that Christ is true; that the ministering angels sent forth from God are true, and that we know that we have an house not made with hands eternal in the heavens, whose builder and maker is God; a consolation which our oppressors cannot feel, when fortune, or fate, shall lay its iron hand on them as it has on us.<sup>2</sup>

The attempt of the Prophet in 1839, after his “release” on a change of venue from the Liberty Jail, to obtain redress for the Saints’ grievances against Missouri by turning to the national government was rebuffed. President Martin Van Buren responded to the Saints’ plea with the remark, “What can I do? I can do nothing for you!” Constitutionally the position of President Van Buren had some judicial support at that time. The Supreme Court had ruled in *Barron vs. Baltimore* (1833) that the protections in the Bill of Rights against government actions pertained to the national government, not to the states.<sup>3</sup> It appears, however, that

Van Buren's remark was motivated in part by political expediency. He is reported to have added: "If I do anything, I shall come in contact with the whole state of Missouri."<sup>4</sup>

The Mormons had been expelled from Missouri by the state militia under the "Extermination Order" of Governor Lilburn W. Boggs. A "treaty," forced on the Saints by Generals Samuel D. Lucas and John B. Clark, confiscated Mormon properties to pay for the "Mormon War," exiled the Mormons under the threat of death, and precluded any hope of legal redress of their losses. The state legislature sanctioned these actions by appropriating \$200,000 to pay the men called into the state militia. Redress of their grievances from the state of Missouri appeared hopeless to the Saints. Indeed, separation of powers—thought to be an institutional arrangement to protect individual liberty against governmental tyranny—failed the Saints in Missouri as all three branches of government were united in opposition to the Saints. If they could not receive help from the national government under the Constitution, where could they turn?

It was with the unresolved Missouri problems vividly in mind and the developing friction with some of the citizens and public officials of Illinois that the Prophet, on 15 October 1843, acknowledged the virtues of the Constitution but found that it contained one significant fault:

It is one of the first principles of my life, and one that I have cultivated from my childhood, having been taught it by my father, to allow every one the liberty of conscience. I am the greatest advocate of the Constitution of the United States there is on the earth. In my feelings I am always ready to die for the protection of the weak and oppressed in their just rights. The only fault I find with the Constitution is, it is not broad enough to cover the whole ground.

Although it provides that all men shall enjoy religious freedom, yet it does not provide the manner by which that freedom can be preserved, nor for the punishment of Government Officers who refuse to protect the people in their religious rights, or punish those mobs, states, or communities who interfere with the rights of the people on account of their religion. Its sentiments are good, but it provides no means of enforcing them. It has but this one fault. Under its provision, a man or a people who are able to protect themselves can get along well enough; but those who have the misfortune to be weak or unpopular are left to the merciless rage of popular fury.<sup>5</sup>

Joseph concluded by proposing that officers of the government should be required to support affirmatively constitutional guarantees or be severely punished. Since the realization of this proposal was unlikely, Joseph turned to other national strategies, including his campaign for the presidency of the United States in 1844.

The sanctuary the Saints developed in Nauvoo after their exile from Missouri began to erode in 1843. The Prophet again sought national solutions. Letters were sent on 4 November 1843 to John C. Calhoun,

Lewis Cass, Richard M. Johnson, Henry Clay, and Martin Van Buren, who were the possible candidates for the presidency in 1844. Calhoun's reply was reminiscent of Van Buren's attitude, asserting a lack of federal jurisdiction. Joseph Smith, incensed with this position, responded in a letter written to Calhoun on 2 January 1844, chastising Calhoun for his limited interpretation of the constitutional powers of the national government. The Prophet's letter then continued with a nationalistic interpretation of the Constitution protective of Mormon rights. He ridiculed the position that the national government was helpless to intervene when a "sovereign" state banished fifteen thousand of its citizens with a state militia supported by legislative appropriations. He pointed out that the properties of the Mormons, many of which were purchased from the national government, were taken over by the Missouri mob and that the federal government had a constitutional obligation to protect these property rights. The Prophet believed that Missouri had violated the privileges and immunities clause of the Constitution and that the state was violating the principles of a republican government. Hence the United States had a constitutional responsibility under article 4 to correct these problems in Missouri. He wrote:

Congress has power to protect the nation against foreign invasion and internal broil, and whenever that body passes an act to maintain right with any power; or to restore right to any portion of her citizens, IT IS THE SUPREME LAW OF THE LAND, and should a state refuse submission, that state is guilty of *insurrection or rebellion*, and the president has as much power to repel it as Washington had to march against the "whiskey boys of Pittsburg" or General Jackson had to send an armed force to suppress the rebellion of South Carolina!<sup>6</sup>

Hamilton's broad construction of the Constitution seems moderate in light of the Prophet's interpretation of the Tenth Amendment: "Why, Sir, the power not delegated to the United States and the states, belongs to the people, and congress sent to do the people's business, have all power." Joseph Smith also found power sufficient in the general welfare, suppression of insurrection, and necessary and proper clauses of article 1, section 8, to justify the national government in protecting the Saints in their rights. A cognizance of these powers, declared Joseph, "will raise your mind above the narrow notion, that the general government has no power—to the sublime idea that congress, with the President as executor, is as Almighty in its sphere, as Jehovah is in his."

Mounting depredations on the Mormon populace in and around Nauvoo prompted another national stratagem. On 21 December 1843, the city council of Nauvoo memorialized Congress for redress of grievances and protection from further persecution by praying that the Nauvoo charter be the basis of an enabling act creating a self-governing territory for the city of Nauvoo. The council also asked that the mayor of

Nauvoo be empowered to call United States troops into service to maintain the public safety, and implored: “Let it not be recorded in the archives of the nations that Columbia’s exiles sought protection and redress at your hands but sought it in vain. It is in your power to save us, our wives, and our children from a repetition of the bloodthirsty scenes of Missouri, and greatly relieve the fears of a persecuted and injured people.”<sup>7</sup> This proposal was never considered by Congress.

Joseph Smith believed that the Constitution, correctly interpreted, clearly empowered the national government to pursue one or more of a number of alternatives to protect the Saints in their rights. He became increasingly concerned with the “limited” or “strict” interpretation of the Constitution by those in political office. On 29 January 1844, the Prophet met with the Twelve Apostles and others at the mayor’s office to consider the course for the Mormons to take in the presidential election. They agreed they could not support Martin Van Buren or Henry Clay, the likely Democratic and Whig candidates, so it was moved by Willard Richards that they have an independent ticket with Joseph Smith as the candidate for President. In the Prophet’s response he said: “Tell the people we have had Whig and Democratic Presidents long enough: we want a President of the United States. If I ever get into the presidential chair, I will protect the people in their rights and liberties.”<sup>8</sup>

That same day the Prophet dictated an outline for his “Views on the Powers and Policy of the Government of the United States,” amplifying many of his previously developed constitutional concepts, and on 7 February 1844 he completed and signed his “Views.” The next day he gave an explanation as to why he was a candidate. Citing the denial of the Saints’ religious and civil rights under the Constitution and the failure of the state and national governments to grant relief, he declared:

I feel it to be my right and privilege to obtain what influence and power I can, lawfully, in the United States, for the protection of injured innocence; and if I lose my life in a good cause I am willing to be sacrificed on the altar of virtue, righteousness and truth, in maintaining the laws and Constitution of the United States, if need be, for the general good of mankind.<sup>9</sup>

Joseph’s “Views,” his presidential platform, included the ideals of the Declaration of Independence and a number of economic, social, and political proposals. He argued that equality and protection of life, liberty, and the pursuit of happiness are denied when “some two or three millions of people are held as slaves for life, because the spirit in them is covered with a darker skin than ours.” He proposed the compensated abolition of slavery, believing “an hour of virtuous liberty on earth is worth a whole eternity in bondage!” He expressed compassion for the poor and contempt for the inequities in the system when the poor are put in prison while the embezzler, the defrauder, or the defaulter of millions takes the

“uppermost rooms at feasts.” Imprisonment for debt, he held, was unconscionable. He also expressed his concern for the poor when he called for more economy in government and less taxation on the people, which he believed would promote “more equality through the cities, towns, and country, [and] would make less distinction among the people.”

He proposed the establishment of a national bank, with branches in each state or territory, which would be for the “accommodation of the people.” He championed the cause of popular sovereignty and insisted that the will of the people be honored: “In the United States the people are the government, and their united voice is the only sovereign that should rule.” Moreover, the “Views” called for congressional reform by reducing the size of the House of Representatives by at least one half and limiting the pay of senators, representatives, and administrators. Joseph declared that officers of the government are nothing more than servants of the people and should work to “ameliorate the condition of all: black and white, bond or free . . . for ‘God hath made of one blood all nations of men, for to dwell on all the face of the earth.’ ” He urged prison reforms, with emphasis on rehabilitation instead of punishment, stating, “rigor and seclusion will never do as much to reform the propensities of man, as reason and friendship. Murder only can claim confinement or death. Let the penitentiaries be turned into seminaries of learning.” He advocated that constitutional liberties and rights be extended to every man. The great end and aim of the Constitution, he wrote, was “*to protect the people in their rights.*”<sup>10</sup>

A special conference was called in Nauvoo on 15 April 1844, and a list was published of 340 elders of the Church designated to go to every state in the Union to “preach the truth in righteousness, and present before the people ‘General Smith’s views of the power and policy of the General Government,’ and seek diligently to get up electors who will go for him for the presidency.”<sup>11</sup> A “state convention” was held in Nauvoo on 17 May, in which “General Joseph Smith” was supported for President, Sidney Rigdon “of Pennsylvania” for Vice President, and five prominent Mormons were designated as delegates to a national nominating convention to be held in Baltimore on 13 July.

History records what came of this last effort to find a national solution to the problems of the Saints. Indeed, Joseph lost his life “in a good cause.” His lifelong quest for social justice found only injustice returned to him and his people, culminating in his assassination on 27 June 1844. Prior to his death, in a response to Henry Clay’s position on the Mormon difficulties, he registered disillusionment in existing social and political arrangements and yearned for the speedy establishment of the kingdom of God:

I mourn for the depravity of the world; I despise the hypocrisy of chirstendom; I hate the imbecility of American statesmen; I detest the shrinkage of candidates for office, from pledges and responsibility; I long for a day of righteousness, when he “whose right it is to reign, shall judge the poor, and reprove with equity for the meek of the earth,” and I pray God, who hath given our fathers a promise of a perfect government in the last days, to purify the hearts of the people and hasten the welcome day.<sup>12</sup>

Joseph’s dream of the ideal society, the kingdom of God, was not achieved during his lifetime, nor did his various proposals succeed in protecting the Mormons in their rights. Many ridiculed his presidential platform, and few in his own day agreed with his constitutional views. The people and officials of Missouri and Illinois abridged the Mormon right to free exercise of religion. Procedural protections in the criminal process were unavailable to the Saints in Missouri and jeopardized in Illinois. Mormons lost their lives, liberties, and property without due process of law. Additionally, Mormon political and civil rights were transgressed.

It is interesting to note that many of the policies Joseph Smith advocated in the 1840s have been essentially realized in our time. His presidential platform was clearly ahead of its time. Much of what he proposed has been achieved with the abolition of slavery; the creation of the Federal Reserve System in banking; prison reform, probation, and parole emphasizing the rehabilitation of convicts; suffrage extension to all adult citizens and reapportionment of electoral districts on the “one man, one vote” principle; and the current emphasis on the protection of individual liberties.

Moreover, the core of Joseph’s objectives—protection of individual liberties of the poor and unpopular by the national government with the President as executor—has also been realized, but it has been accomplished through the federal courts’ interpretation and application of the due process and equal protection clauses of the Fourteenth Amendment. The relevant part of this amendment reads:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Fourteenth Amendment was adopted in 1868 in the hopes of attaining pervasive social reforms, but for nearly a century reforms were limited by the restrictive interpretations of the Supreme Court. Since World War II it has finally blossomed into the protector of individual freedoms through the selective incorporation of almost all of the Bill of Rights. The substantive rights of the First and Fifth Amendments have now been applied to the states, protecting the freedoms of religion, press, speech, and assembly, and those of life, liberty, and property against

violations of these rights from any officials or instrumentalities of the states. Similar incorporation of the procedural protections found in the Fourth, Fifth, Sixth, and Eighth amendments has brought the criminal justice systems of the states a long way toward the ideals of fairness and justice implied in the notion of “due process of law.”

This important national function of protecting individual rights, which Joseph Smith considered appropriate under the Constitution, should not be lost sight of in an age clamoring for new checks on federal power. What essentially is required now is a fine-tuning of federal-state relations that will expand human freedom and development. We cannot afford to pare away genuine gains that have been made in individual liberties and human dignity by interpreting constitutional protections in restrictive ways.

Although presidents and presidential candidates professed in Joseph’s era that they “could do nothing for the Saints,” the Congress, the people, and the courts could and did in later generations by proposing, ratifying, and applying the Fourteenth Amendment. Acting as its adjudicator, the Supreme Court of the United States has become the guardian of individual rights. Even though instances can be cited wherein the Court has restricted rights important to Mormons, the vast extension of protected rights cannot be ignored. The “one fault” Joseph Smith found in the Constitution has largely been corrected through the Fourteenth Amendment, and every person in America today can feel secure that his basic liberties will be protected substantively and procedurally from state as well as national encroachment. The goals of individual liberty as set forth in the Declaration of Independence and the protections in the Constitution and the Bill of Rights, though not always realized in every court across the land, are measurably more a part of each of our lives than they were in Joseph Smith’s era.

## NOTES

<sup>1</sup>Joseph Smith, Jr., *History of The Church of Jesus Christ of Latter-day Saints*, ed. B. H. Roberts, 2d ed. rev., 7 vols. (Salt Lake City: Deseret News, 1946–50), 5:286 (hereafter cited as *History of the Church*).

<sup>2</sup>Ibid. 3:304-5.

<sup>3</sup>President Andrew Jackson expressed this position earlier in a letter of 2 May 1834 by Lewis Cass of the War Department when the Mormons first appealed to the national government for redress of their grievances resulting from mob violence in Jackson County, Missouri. Jackson believed that the executive could not intervene in a state affair without a request from state authorities as set forth in article 2, section 4 of the Constitution.

<sup>4</sup>*History of the Church* 4:40.

<sup>5</sup>Ibid. 6:56–57.

<sup>6</sup>“Correspondence of Gen. Joseph Smith and Hon. J. C. Calhoun,” *Times and Seasons* 5 (January 1844): 396.

<sup>7</sup>Memorial presented to 28th Cong., 1st sess., National Archives. See also *History of the Church* 6:130.

<sup>8</sup>*History of the Church* 6:188.

<sup>9</sup>Ibid. 6:210–11.

<sup>10</sup>“Gen. Smith’s Views on the Government and Policy of the U.S.,” *Times and Seasons* 5 (May 1844): 528–33. See also *History of the Church* 6:202.

<sup>11</sup>Brigham Young, “‘Special Conference’ Statement,” *Times and Seasons* 5 (April 1844): 506.

<sup>12</sup>Ibid. 5:547–48.