# J. Reuben Clark, Jr.: The Constitution and The Great Fundamentals

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The assertion that the Constitution of the United States is an inspired document made so frequently by Mormon writers and speakers is rarely probed for its full meaning; generally, they are content to deal with the question rhetorically rather than analytically. The most important exception to this rule, at least among Church leaders, was J. Reuben Clark, Jr.

President Clark is set apart from most Mormon commentators on the Constitution by three distinctive characteristics. The first is the eloquence of his exposition and defense of the Constitution as a political document. His sure rhetorical ear rarely fails him as he searches for the right word, the pungent phrase, or the stirring sentence or paragraph as he presses his case on the reader. As has been said elsewhere, what sets him apart from other Mormon commentators on the Constitution is not primarily his views but "the felicity with which he expressed them, the intensity with which he held them and the persistence with which he repeated them."[1]

Secondly, President Clark's writings, lectures, and sermons on the Constitution contain, when taken as a whole, a careful, precise, and full statement of the historical, philosophical, and scriptural basis of his convictions. He thus welded cogent

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[1]Martin B. Hickman and Ray C. Hillam, "J. Reuben Clark, Jr.: Political Isolationism Revisited," *Dialogue* 7:39 (Spring 1972).

analytical arguments for fundamental constitutional principles to the spiritual insights provided by the scriptures. Both elements are important to his constitutional thought; each might stand readily alone, but they are mutually reinforced by the skillful and eloquent statement President Clark gives them.

Lastly, President Clark brought to his consideration of the American Constitution a deep sense of history. In his view, "the Constitution was born, not only of the wisdom and experience of the generation that wrought it, but also out of the wisdom of the long generations that had gone before and which had been transmitted to them through tradition and the pages of history."[2] The framers, he carefully pointed out, not only understood the meaning of the legacy which history and tradition had bequeathed them, but coupled that knowledge to their own colonial experience so that when it came to political questions they were at home not only in Virginia, Maryland, or New York, but also "equally at home in Rome, in Athens, in Paris, and in London . . . ."[3]

It was precisely because President Clark understood the importance and relevance of history that he could appreciate and emphasize the meaningful way in which the founding fathers drew simultaneously on their experience and historical knowledge to write a document whose relevance reached both forward and backward across time.

A complete study of President Clark's commentary on the Constitution would require an entire monograph so all that can be undertaken in a relatively short article is an examination of some aspects of that commentary. Three aspects of President Clark's commentaries on the Constitution stand out: (1) his belief that it was an inspired document, (2) his insistence on the centrality of the separation of powers, and (3) his devotion to the freedoms enshrined in the First Amendment. In view of the salience of these points in President Clark's constitutional thought, they will be the focus of the balance of this paper.

## HISTORY AND INSPIRATION

President Clark, of course, does not stand alone in his belief that the Constitution was an inspired document. Joseph

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[2]*Church News,* 29 November 1952, p. 3.
[3]J. Reuben Clark, Jr. in *Conference Report of the Church of Jesus Christ of Latter-day Saints,* April 1957, p. 48.

Smith, Brigham Young, and other presidents of the Church taught the same and ultimately they all drew on the Doctrine and Covenants for justification of their belief. Interestingly, the Doctrine and Covenants does not contain the phrase "inspired document," but that phrase is by no means an unjustified paraphrase of the passages in the Doctrine and Covenants. What the Doctrine and Covenants does assert is that the Lord "established the Constitution of this land by the hands of wise men whom I raised up unto this very purpose." (Doctrine and Covenants 101:77-80.) Drawing on this declaration, Mormon commentators from the beginning of the Church have insisted on the primacy of the Constitution as a model for human government. President Clark constantly underlined the importance of this tradition in Mormon life. "From the time I stood at my mother's knee," he told a group of bankers in 1938, "I have been taught to reverence the Constitution as God-given."[4] That parental teaching—reinforced by modern scripture—shaped all of President Clark's thinking about the Constitution. But he saw the Constitution in its broadest possible application. It was for him not simply the form of government best suited to the needs of a new nation struggling to free itself from the coils of colonialism, but also a document containing principles which were applicable everywhere. It was his firm belief that: "In broad outline the Lord has declared through our Constitution his form for human government."[5] He repeated that belief in so many ways, on so many different occasions, across so many years, that there can be little doubt about the importance it played in his life. Furthermore, it is the constant background against which his constitutional writings must be assessed.

What is unique about President Clark's belief in the Constitution as an inspired document is the way he links that faith to an understanding of history. There is nothing in President Clark's writings on the Constitution which suggests that he thought the whole of the drama of the Constitution was played in Philadelphia in 1787. Rather he saw the Constitution as emerging from a long historical process. He assessed the framers of the Constitution as being men of great historical knowledge as well as practical experience. In the same vein, President Clark was fully aware that the political principles

[4]*Vital Speeches of the Day,* 4:178 (1938).
[5]*Conference Report,* April 1957, p. 52.

which are enshrined in the Constitution had their origins in the development of Anglo-Saxon legal and political experience. The Common Law, and English constitutional experience, were the schoolmasters of the framers: "They remembered the Barons and King John at Runnymede. They were thoroughly indoctrinated in the principle that the true sovereignty rested in the people."[6] They brought to their task, as he clearly saw, a mastery of the political ideas which had gradually emerged from the long struggle of Englishmen for self-government.

While President Clark's sense of history led him to see the relevance of the past to the emergence of the Constitution, he did not survey history with the naturalistic eyes of the secular historian. Rather he viewed history through the lens of faith, and for him the Constitution was simultaneously a beginning and an end. As an end, it was the culmination of the effort to find the political framework for assuring the continued development and protection of human freedom. As a beginning it marked the birth of the "first new nation" which had shed the unwanted baggage of the past, while taking from the past the best of its lessons.

This beginning and end were for President Clark not the haphazard results of historical chance, but rather the manifestations of the divine will in the affairs of men. For him, the whole of the Anglo-Saxon political and legal tradition was part of the "establishment" process which resulted in the American Constitution. It was his conception of history as a seamless web which enabled him to maintain his religious faith in the Constitution as an inspired document while judging clearly how much it owed to the past. After reading President Clark on the Constitution, no one can believe that the framers created something out of nothing, for he shows how heavily they drew upon history and their own experience in writing the Constitution. But likewise no one can come from a study of President Clark's writings on the Constitution without being touched by his testimony that while they came to their task, "rich in intellectual endowment and ripened in experience," they were after all "in God's hands; he guided them in their epoch making deliberations in Independence Hall."[7]

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[6] *Church News,* 29 November 1952, p. 12.

[7] *Conference Report,* April 1957, p. 48.

## SEPARATION OF POWERS

At the heart of President Clark's defense of the Constitution was his insistence on the necessity of the separation of powers. In his view the founding fathers had created a government in which the three branches of government—executive, legislative, and judicial—were "wholly independent of the other. No one of them might encroach upon the other. No one of them might delegate its power to another."[8] He asserted, with the founding fathers, that the accumulation of all governmental powers in the same hands was the very definition of tyranny. Any changes which tended to erode that separation had to be resisted vigorously.

President Clark's defense of the separation of powers as the central idea of the Constitution went far beyond a mere assertion that such separation was a protection against tyranny, and beyond a repetition of quotes from the founding fathers. He carefully spelled out his own understanding of the difference that doctrine had made in the political development of England and the English colonies compared to that of continental Europe.[9] That comparative study led him to contrast the way in which the legacy of the Roman Empire, and particularly the Roman Civil Law, had provided justification for the absolute monarchies of continental Europe, while in England the monarchy was being increasingly subjected to the will of the people. Those simultaneous developments, he argued, were related to fundamental ideas about the nature of the law. While the governing principle on the continent inherited from Roman law was that the will of the Emperor was law, that will knew no bounds but the Emperor's adherence to traditions or his sense of morality.[10] If the Emperor lacked these restraining virtues, there was nothing that he might not will into law. For the Emperor to have this power it was, of course, necessary for him to possess legislative and judicial as well as executive power. President Clark saw a relation between this concen-

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[8]*Church News,* 29 November 1952, p. 12.

[9]President Clark's article in the *Church News,* cited above, spells out his view on this comparison in some detail.

[10]Francis D. Wormuth, *The Origins of Modern Constitutionalism* (New York: Harper & Brothers, 1949), p. 29. Professor Wormuth points out that the concept current in the medieval world that the sovereign must obey the laws of God and nature was not drawn from Roman law, "for the Roman jurists were clear that any imperial command, however unreasonable, was law."

tration of all governmental power in the same hands and the absence of liberty on the continent. The peoples of western and southern Europe, he wrote,

> have lived under this concept (sometimes more, sometimes less) and, when the concept has been operative, have suffered the resulting tragedies—loss of liberty, oppression, great poverty among the masses, insecurity, wanton disregard of human life, and a host of the relatives of these evil broods.[11]

Furthermore, he believed that the civil law had left another unfortunate legacy to the people of Europe. The very nature of the civil law with its justification resting in the will of the Emperor and its codification into the great codes of Justin and Theodosius dictated a system under which "the people look into the law to see what they may do."[12] This meant, of course, that these governments were governments of residual powers; that is, they had all power unless they chose not to exercise a specific power. Despite a long literary tradition in Europe which made kings subject to the will of God, to natural law, or in some cases to contracts with the subjects, the political realities made rebellion the only effective way of enforcing these limitations on royal rulers. "The rigors of this system," President Clark pointed out, "were at times mitigated by a benign sovereign, but only to the extent that he desired. . . ."[13] Attempts to restrict the royal will by legislative bodies were thwarted by the fact that they existed at the sovereign's pleasure and "any attempt by those bodies to go contrary to his will was somehow made ineffective; sometimes such efforts were treasonable and so treated."[14]

This royal domination of the governmental process and the liberties of the people does not mean that men were not governed by law. What it does mean is that men were not governed by laws of their own making. The rule of law had a restricted meaning in such a system. It meant that the sovereign ought to be bound by the law just as his subjects were. It did not mean that there were some laws which the sovereign could not change, or that there were some rights of his subjects which he could not violate. The consequences of such a

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[11] *Church News,* 29 November 1952, p. 12.
[12] Ibid.
[13] Ibid.
[14] Ibid.

system were to limit the development of political and civil liberties to a very restricted sphere and to hold the nations of western Europe far behind the development of England in the ways in which the people were able to subject the government and the monarchy to their will.

In contrast to the continental system, President Clark argued, political development in England had resulted in the will of the sovereign being brought under the control of the people. The Glorious Revolution of 1688 had fixed once and for all in English constitutional development the concept that the sovereign owed his rightful possession of the throne to the will of Parliament, and that Parliament was responsible solely to the people. In addition to this development of parliamentary control over the king, there had emerged over a long period of time the notion that there were some things which the executive could not do without legislative authority. This notion had centered principally around the struggle for the power of the purse, and the rights of Englishmen not to be taxed unless they were represented in Parliament had become a cherished English right. This principle, President Clark thought, was important not only because it gave the people control over the way in which the government sought to tax their property, but also because it was the foundation of the notion that there were some things which the government could not do unless it was expressly permitted to do so by the elective representatives of the government. It was from this point only a short distance to the idea of a written constitution which specified certain governmental powers which might be exercised by the government, but specifying others which should be denied to the government under any circumstances.

In this context the idea of the rule of law takes on an expanded meaning. Not only does the rule of law mean that the sovereign is bound by the law and must live under the law as do his subjects, but it also means that, as President Clark pointed out: "The people specifically grant to their government the powers and the authorities which they wish their government to have. When any power is exercised which is not granted, it is a usurpation."[15] This concept of "limited government" is the fundamental premise on which the American constitutional system is based. However, the notion of a

[15]*Vital Speeches,* p. 175.

limited government is so familiar to most Americans that it is easy to forget how long and difficult its establishment has been. Moreover, it is easy to assume that it has held sway in all parts of the world and that somehow all civilized states are based on the same fundamental notions. President Clark wished clearly to point out that what had happened in the constitutional convention, and in the ratification process which followed that convention, was a new departure in the history of the world.[16] It not only brought into American government the notion of limited government which had emerged in England, but it added to that notion the idea of a written constitution which specifically spelled out the rights and liberties of the people which would be immune to governmental interference. In the establishment of a government based on a written document, President Clark saw the culmination of a long historical process which had its beginnings deep in the efforts of the English people to free themselves from the tyranny of absolute monarchy.

The crucial development in the emergence of the concept of limited government was the introduction of the doctrine of the separation of powers in English constitutional discourse during the English Civil War. The notion that the executive and legislative powers ought to be separated was first introduced to oppose the practice of the House of Commons of trying judicial cases. The intent was to "assure that accused persons be tried by the known procedures of courts of justice and convicted by settled rules previously enacted, rather than according to the considerations of policy which moved legislative bodies."[17] But soon a second, and potentially more vital argument entered the debate. A major function of Parliament was thought by Englishmen of the period to be the supervision of the administration of the law. If Parliament were simultaneously charged with the task of exacting general rules and supervising the application of the rules in particular cases, then, as John Lilburne argued as early as 1649, Englishmen would be a nation of fools. For if Parliament could "execute the law, they might do palpable injustice, and maladminister it . . .,"[18] but in that case to whom could those so wronged turn for justice? Surely not to Parliament, for would not the members

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[16]*Church News,* 29 November 1952, p. 12.
[17]Wormuth, *Modern Constitutionalism,* p. 64.
[18]Ibid., p. 66.

of Parliament turn to this accuser "to vote that man a traitor and destroy him. . . ."[19]

Support for the separation of powers as the cornerstone of limited government spread rapidly in the period after the English Civil War. John Locke and Montesquieu included a version of the concept in their political writings, and by 1787, when the founding fathers began the task of writing the Constitution, it was firmly fixed as one of the brightest stars in their political firmament. It was, as President Clark pointed out, because they were "aware that a combination of legislative, executive and judicial power in one person or body was destructive of all freedom and justice," that they wrote a constitution providing for "a government in which these three branches [judicial, executive, legislative] were distinct and wholly independent the one from the other."[20]

President Clark's assertion that the three branches of government were wholly independent of each other must not be taken to mean that he was unaware of the implications of the system of checks and balances which co-exists in the Constitution with separation of powers. They are, after all, two different principles. The separation of powers, the founding fathers knew from their English heritage, was a necessary concomitant of the generality and prospectivity of law, for only where the powers of government were separate were the conditions created which assured that general and prospective laws would be maintained. The same English heritage had also taught them that a separation of powers was not likely to last unless some barriers were created to prevent the flow of power to the legislative branch. Of course, the idea of checks and balances was not a new one. Polybius had described the Roman constitution in terms of checks and balances, but this device was used in Rome not to maintain the balance between the branches of government, but to balance the power of contending social classes by giving each class representation in a separate political institution. It was Thomas Jefferson who, on the basis of his knowledge of English constitutional development and as a result of his Virginia experience, first

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[19]Ibid. On the development of the theory and meaning of the separation of powers, see W. B. Gwyn, *The Meaning of the Separation of Powers* (The Hague: Martinus Nijhoff, 1966). Gwyn deals rather more fully with the authors who have written on the separation of powers than does Wormuth, but he follows him rather carefully on the issues discussed in this paper.

[20]*Vital Speeches,* p. 176.

saw that unless some way was found to maintain a separation of powers that all power would gradually flow to the legislative branch; just as in the English constitutional development, Parliament, through its power of the purse, had slowly but surely gathered all power into its hands.[21] Jefferson, therefore, argued that a system of checks and balances should be adopted to assure the continued separation of powers between the three branches of government.

Also, the authors of the *Federalist* noted that the "great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others."[22] They rejected the argument that such formal arrangements were unnecessary to protect freedom. For, as they wrote, "dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions."[23]

President Clark clearly knew all of this. He understood the ways in which the branches of government check each other. He knew that the right of the president to suggest legislation, or to veto legislation which he thought unwise, made him part of the legislative process. He understood the legal and political implications of the practice of judicial review. What he insisted upon was the independence of the branches in their assigned constitutional spheres. He was opposed to "court packing," to congressional subservience to presidential demands, and to presidential usurpation of congressional prerogatives. These all took, he believed, the American government back down the path of political repression

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[21]Phillip S. Foner, ed., *Basic Writings of Thomas Jefferson* (New York: Wiley Book Company, 1944). Jefferson described the Virginia experience with a constitution which provided for a separation of powers, but which omitted checks and balances, in the following passage: "The judiciary and the executive members were left dependent on the legislature for subsistence in office, and some of them for their continuance in it. If, therefore, the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can be effectual; because in that case they may put their proceedings into the form of acts of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances decided rights which should have been left to judiciary controversy, and the direction of the executive, during the whole time of their session, is becoming habitual and familiar." Ibid., p. 132.

[22]*The Federalist,* No. 51 (New York: Modern Library, 1932), p. 337.

[23]Ibid. The arguments for a system of checks and balances to maintain a separation of powers is developed in *The Federalist,* Nos. 47-51.

which the framers had so carefully sought to avoid. His insistence on the necessity of the "complete" independence of each branch of government was, therefore, made with a full knowledge that the Constitution itself provided for their interdependence in certain precise ways. President Clark not only understood this relationship, but thought it to be the genius of the Constitution.

> It is this union of independence and dependence of these branches—legislative, executive and judicial—and of the governmental functions possessed by each of them, that constitutes the marvelous genius of this unrivalled document. The Framers had no direct guide in this work, no historical governmental precedent upon which to rely. As I see it, it was here that the divine inspiration came. It was truly a miracle.[24]

President Clark was anxious that such a hard-won victory for the forces of freedom and civil liberty should not be given away unwittingly. He made special efforts, therefore, to call attention to the dangers involved in permitting either of the three branches of government to usurp powers which did not rightfully belong to them. One of the issues to which he addressed himself most directly was the question of whether there exists under the American Constitution a set of war powers which the President could exercise in times of war that were separate and distinct from the President's executive power.[25] President Clark argued cogently that the plain words of the Constitution granted the war powers specifically to Congress. These included the power to declare war and to provide for its prosecution by appropriating monies for the armed forces and drafting men into the armed services. Furthermore, he pointed out, the framers intended that such be the case. The President's right to act in times of war, he argued, existed only where Congress undertook to provide him with power under its constitutional authority to make and declare war. President Clark was also aware that the President might take the necessary action to repel an invasion, or that in times of war Congress had full power to give the President powers of "the widest scope, including provisions derogatory

[24]*Church News,* 29 November 1952, p. 12.

[25]Ibid., p. 13. For a careful analysis of presidential war powers, which lends full support to President Clark's views on this issue, *see* Francis D. Wormuth, "The Nixon Theory of the War Power: A Critique," *California Law Review,* vol. 60, no. 3 (May 1972), pp. 623-703.

and even largely destructive of the ordinary peace-time civil rights of individuals."[26]

Although President Clark did not live to see our day, one cannot help but feel that he would have been most disturbed by the pursuance of a large-scale war in Vietnam without a declaration of war by Congress.[27] At the same time, one cannot help but feel that he would have been scornful of the outcries of many politicians and legislators about the usurpation of legislative authority inherent in the conduct of major hostilities without congressional authority. He might have justifiably pointed out to them that had they heeded his words of warning about the growing excesses of executive power in the mid-30s and 40s they would not have had to deal with presidents who were able to conduct a war of considerable magnitude without congressional authority. He might also have pointed out to them that had the Congress been jealous of its constitutional prerogatives and rights, had it maintained its constitutional freedom of action, and not, in many respects, become the handmaiden of the executive branch, that Congress would have been in a better position to enforce upon the President a limitation in his conduct of the war.

## LIMITED GOVERNMENT

The tradition of limited government which President Clark found so intimately connected with the principles of separation of powers, found expression in the American Constitution, he thought, in still other ways. The most important of these were the limitations on governmental power explicitly placed in the Constitution by the framers. One might note that two of these limitations are rather routinely overlooked by commentators on the Constitution, but they are important in the maintenance of the principle of a separation of powers. The first is the prohibition against *ex post facto* laws. It is clear that if law is to be meaningful it must not be capricious, and it can be prevented from being capricious only when it is prospective, that is, when it applies in the future and

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[26]Ibid.

[27]See his sermon in the *Conference Report,* April 1957, pp. 49-50 for a discussion of the war power in which President Clark explains that the framers earnestly sought "to make as nearly impossible as could be, the malfeasances of the past by men in high executive offices in the future; and seemingly perhaps beyond everything else as a practical matter, to prevent the President from taking us into war of his own volition."

not in the past. Therefore, the framers of the Constitution prohibited Congress from passing *ex post facto* laws, thus assuring that citizens would not be punished for acts which were legal when they were undertaken. Another prohibition in the Constitution central to the question of the separation of powers is a prohibition against bills of attainder. Bills of attainder are legislative declarations of guilt; the issuance of which, under the separation of powers, must be left to the courts since the role of Congress or the legislature is simply to declare the general law. The question of whether any individual falls within the purview of that law or is guilty under the terms of its sanctions is a question for the courts; if the legislature could declare who is guilty under the terms of the general law, it would thereby gain all power over the citizens in its own hands. Consequently, to preserve the separation of powers, the framers of the Constitution very wisely banned those two ancient enemies of the rule of law—*ex post facto* laws and bills of attainder.

At the same time that the founders were writing into the Constitution the provisions banning bills of attainder and *ex post facto* laws, they did not find it necessary to enact a specific bill of rights.[28] The prevailing opinion in the constitutional convention was that a bill of rights was unnecessary since it was clearly understood that the new government would be a government of delegated powers and could therefore exercise only those powers which were expressly given to it by the Constitution. All other rights of citizens were automatically outside the purview of the federal government. In the ensuing debates over ratification it became clear that it would be difficult to obtain the ratifications of the new constitution unless a bill of rights was specifically included. Therefore, several amendments were drawn up with the promise that they would be submitted to the states for ratification as soon as possible after the new government had come into power. Because this was done, the Bill of Rights, which is at the core of the protection of our civil liberties today, was not adopted as a part of the Constitution at the convention.

President Clark was fully aware of the way in which the Bill of Rights had entered the Constitution. Yet, it was his firm belief that the Bill of Rights, no less than the body of

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[28]Alfred H. Kelley and Winfred A. Harbison, *The American Constitution* (New York: W. W. Norton & Co., 1948), p. 152.

the Constitution, fell within the definition of being divinely inspired. He bore his testimony in April Conference of 1957 that the "Constitution of the United States as it came from the hands of the framers, with its coterminous Bill of Rights," was an integral part of his religious faith. "It is," he said, "a revelation from the Lord. I believe and reverence its God-inspired provisions."[29] Since for President Clark the whole concept of limited government was a divinely inspired idea, it is only logical that he should believe that the Bill of Rights, which is the concrete manifestation of that tradition, should warrant the title of "inspired."

Central to the concept of limited government, and in President Clark's eyes, no less important than the separation of powers, was the doctrine represented by the Bill of Rights that there are some areas of human life in which the government has no right to interfere. This concept assumes that the individual is morally supreme and that his moral life can never be invaded by the state. This moral life finds its expression in the exchange of ideas and in the exercise of religion. Therefore, it is in these realms of human existence that the conflict between the state and the individual is the sharpest. Moreover, it is precisely in his moral life that the state seeks to restrict the individual, because it is the individual's claim to moral supremacy which undermines the state's demands that its existence is a transcendent end to which the rights of the individual must be subordinated. In the mid-thirties, President Clark put the matter squarely when he observed that, "the greatest struggle which now rocks the whole earth more and more takes on the character of a struggle of the individual versus the state."[30] He went on to ask: "Does the individual exist for the benefit of the state or does the state exist for the benefit of the individual?"[31] There is no doubt, of course, where President Clark stood on the matter, since the whole of his political and religious philosophy rested on the notion of the moral supremacy of the individual.

It is precisely because he was so concerned with the moral supremacy of the individual and the preservation of individual rights against government interference that he saw in the Bill of Rights a great monument to the progress which the human

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[29]*Conference Report,* April 1957, pp. 50-51.
[30]*Vital Speeches,* p. 174.
[31]Ibid.

spirit had made in its search for freedom. He was particularly concerned with the protection of the freedoms guaranteed by the First Amendment: freedom of the press, of speech, and of religion.

His defense of the freedoms of the First Amendment was made at two levels. The first was a general assertion of the necessity to protect the rights of all men against the dictates of the state. At that level he was concerned with the necessity for freedom of the press and of speech as a way of maintaining responsible government. He pointed out that the founding fathers had had considerable experience in attempts to control what they wrote and spoke in criticism of the government and they knew, in his pungent phrase, "how tyranny and oppression smart. . . ."[32] He was also impressed by the way that they understood how government officials are prone to resent any criticism and to take whatever action they can to suppress that criticism. It was President Clark's opinion that the founding fathers had never intended that the means of communication and publicity should be regulated so as to eliminate criticism of governmental policy or employees. "The fathers felt that when they protected freedom of speech and of the press against government interference," he wrote, "they had effectively guaranteed the citizens freedom to talk and write as they felt and thought about their own government."[33] President Clark said clearly that without the existence of a free press, and without the right of individuals to speak freely about the way their government was being operated, the chances of freedom being maintained were reduced.

Coupled with President Clark's belief in the necessity of freedom of speech and of the press if government were to remain limited, was his equally fervent belief that government had no right to interfere in the religious life of its citizens. In 1938 he commented on the tendency then extant in the world, and which has certainly multiplied many times over in our day, for governments to restrict freedom of religion, what he called, "the holy of holies of the soul of man."[34] He was outraged that the state should intrude onto such sacred ground and there seek to dethrone God and exalt the state into God's place. "This is the archest treason of them

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[32]*Vital Speeches,* p. 176.
[33]Ibid.
[34]Ibid., p. 175.

all. For man robbed of God becomes a brute."[35] President Clark was explicit in his belief that for a government to trespass on the religious life of its citizens was a sin of the highest magnitude. "This sin," he has written in a sentence of prophetic majesty in its condemnation of evil, "must be felt, not told, for words cannot measure the height and breadth of this iniquity, nor can the human mind encompass the punishment of those who shall commit this sin."[36]

At a second level, President Clark was particularly concerned that Latter-day Saints should give full support to the constitutional freedoms of religion and speech provided by the Constitution. He recalled to their memory the trials and persecution which the Mormon people had suffered; and he reminded them, in the April Conference of 1935, that they needed the Constitution and its "guarantees of liberty and freedom more than any other people in the world, for, weak and few as we are, we stand naked and helpless except when clothed with its benign provisions."[37] He told his audience that nothing was so important to the Mormon people as, "this guarantee of religious freedom, because underneath and behind all that lies in our lives, all that we do in our lives, is our religion, our worship, our belief and faith in God."[38] That call to support the Constitutional liberties seems to be as urgent and valid today as it was in 1935, and indeed President Clark returned to the theme in a conference speech in 1957 in which he said: "Our own prophets have declared in our day the responsibility of the elders of Zion in the preservation of the Constitution. We cannot, guiltless, escape that responsibility, we cannot be laggards nor can we be deserters."[39]

One is impressed upon reading the writings of President Clark on the Constitution to see how faithfully he stays with the fundamentals. It is the separation of powers and its intimate relationship with the development of limited government which occupy so much of his concern; it is the Bill of Rights with its limitations on the power of government to interfere with the moral life of man with which he is so impressed. This concern for fundamentals makes him aware that some

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[35]Ibid.
[36]Ibid.
[37]*Conference Report,* April 1935, p. 94.
[38]Ibid.
[39]*Conference Report,* April 1959, p. 52.

aspects of the Constitution do not warrant the same divine approval as do these great fundamentals. As he told a group of bankers: "It is not my belief nor is it the doctrine of my church that the Constitution is a fully grown document; on the contrary we believe it must grow and develop to meet the changing needs of an advancing world."[40] It was clear, he told the group, that given the lust of men for power and gain it was inevitable that legislation must be constantly adjusted to take into account the never-ending problems which human nature presents. But he insisted "all such changes must be made to protect and preserve our liberties not to take them from us, greater freedom, not slavery must follow every constitutional change."[41] President Clark was concerned, however, that constitutional change might come, and had come, not by the prescribed methods spelled out in the Constitution, but in the urgency of a crisis by a careless disregard for constitutional principles. He was concerned that the American people might acquiesce in constitutional changes which appeared to satisfy the demands of the moment, but which in the long run would not produce the increase of freedom by which he thought each constitutional change should be judged. His was a consistent reminder, therefore, that the American people, and particularly the Mormon community, must look to the fundamentals of the Constitution, must constantly review the purposes for which the Constitution was written, must be aware of the struggles out of which the Constitution emerged, and that they must remember the founding fathers' hope that their posterity might be spared the burden of repressive government—a burden they knew only too well. If the American people, he thought, could focus upon the fundamentals of the Constitution, and if they could remember that they could not safely abrogate the great principles on which the Constitution rests without risking their freedom and that of their children, then there might be hope for the future.

Thus President Clark's understanding of the dynamics of human life, and the ways in which new problems constantly confront those who are called to govern the affairs of men, was simultaneously a recognition of the need for change and an increasing awareness of the continuing relevance of the great fundamentals of the Constitution. It was his own belief,

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[40]*Vital Speeches,* p. 177 .
[41]Ibid.

he told that group of bankers in 1938, and the belief of the Mormon people:

> . . . that in all that relates to its great fundamentals—in the division of powers and their full independence one from the other, in the equal administration of the laws in the even handed dispensing of justice, in the absence of all class and caste, in the freedom of the press and of speech and of religion—we believe that in all such matters as these our constitution must not be changed.[42]

It was the defense of the great fundamentals which concerned President Clark over a life-time of devotion to a Constitution which he believed to be divinely inspired. He believed in the ultimate triumph of the fundamental principles of the Constitution, but his vision of that triumph discloses the heart of a great American whose summons is not that of the chauvinistic flag waver but of the true patriot who sees with clarity the true mission of America.

> Gentlemen, do you not catch a vision of this glory of America, not the glory of a conquest bought with our blood, of a conquest over a torn, maimed, and hating foe, or a conquest that however it may seem, yet nevertheless always leaves the world poorer and more wretched, with more of woe and misery and sin and despair and hate and damnation than before it came; not these conquests. But the conquest of peace and joy, the conquest of bringing more to eat and to wear, of bringing more comfort, more education, more culture, the conquest of liberty over tyranny that all men may know and have the free institutions which are ours, the conquest of caste and legalized privileges and of all social inequalities, the conquest of want and misery, of hunger, and nakedness, a conquest of war itself so that peace and 'righteousness shall cover the earth as the waters cover the mighty deep,' a conquest that shall bring a true millenium.[43]

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[42]Ibid.
[43]Ibid., p. 178.