

# "WE, THE PEOPLE OF THE KINGDOM OF GOD"

## Constitution Writing in the Council of Fifty

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In the spring of 1844, Joseph Smith created a secret organization, the Council of Fifty, of high church officials, civic leaders, and others, and tasked it with establishing the kingdom of God, a political organization to be set up by the Mormons someplace on the North American continent in expectation of the imminent end times. This grandiose goal came amid very concrete concerns about the deteriorating political situation in Illinois and the felt need for the Mormons to look elsewhere for a place of refuge. Once operating, the Council of Fifty spent the lion's share of its efforts on the practical questions of where to locate the projected Mormon commonwealth and how to escape from hostile neighbors and governments. On March 11, 1844, however, the council appointed a committee of John Taylor, Willard Richards, William W. Phelps, and Parley P. Pratt "to draft a constitution which should be perfect, and embrace those principles of which the constitution of the United States lacked."<sup>1</sup> Slightly more than a month later, on April 18, the committee reported a draft constitution to the entire council. The authors, however, expressed their dissatisfaction with their work, and it was returned to committee.<sup>2</sup> A week later, Joseph Smith announced to the council a revelation abandoning the effort to draft a written constitution for the kingdom of God, and the council devoted



On April 25, 1844, Joseph Smith announced a revelation that brought to an end the Council of Fifty's efforts to draft a constitution for the council. Painting by David Rogers, 1842. Courtesy of Community of Christ Library-Archives, Independence, Missouri.

the rest of its efforts to the more immediate problems facing the Saints, culminating in the relocation en masse of the Mormons to the Great Basin after Joseph Smith's murder.<sup>3</sup>

This bare statement of events casts the Mormons as radicals, operating scandalously outside the American political tradition.<sup>4</sup> The Treaty of Paris, which ended the American Revolution, placed the western border of the United States on the Mississippi River. Beginning with the Northwest Ordinance of 1785, Congress organized the area west of the Appalachian Mountains into discrete territories, with local governments under federal supervision. In time, these territories became states. With the exception of the unsuccessful effort to conquer Canada in the War of 1812, this orderly process of expansion continued as the United States government transformed the Louisiana Purchase and the cession from Mexico into territories and then states. Thus the United States established itself as a single polity occupying the center of North America. Within this narrative of unified national expansion at the expense of native tribes, Spain, France, and Mexico, the Mormon dream of an independent commonwealth and an alternative constitution is a jarring aberration.

## AN AMERICAN HISTORY OF BREAKAWAY REPUBLICS

The problem is that the narrative of smooth national expansion is false. In the nineteenth century, North America was littered with abortive republics seeking varying levels of independence from the federal government and from the other competing powers on the continent. Very early in the history of the United States, settlers formed break-away polities on the borders of existing states. Vermont, for example, declared itself an independent republic before being incorporated as a state in 1791. The abortive State of Franklin, which would have sat athwart the Blue Ridge and Appalachian Mountains, was less successful.<sup>5</sup> In 1804, Aaron Burr—Thomas Jefferson's disgruntled vice president—began hatching plans to detach the western territories of the United States to form a new nation with himself at its head. Those efforts ended in failure when a co-conspirator betrayed him to Jefferson in 1806.<sup>6</sup> In 1810, American settlers in Spanish territory declared the Republic of West Florida, raising the lone star flag that would be adopted by Texas revolutionaries a few decades later. In the 1830s, as the Mormon movement gathered steam, settlers in the disputed borderlands between Canada and the United States declared

the tiny Indian Stream Republic.<sup>7</sup> More spectacularly, American filibusters in Mexico managed to detach the territory north and east of the Rio Grande to form the Republic of Texas, which operated as an independent nation from 1836 to 1846.<sup>8</sup> Shortly after the Council of Fifty adjourned its meetings in Nauvoo for the last time, American settlers in the Mexican province of Upper California declared the short-lived Bear Flag Republic.<sup>9</sup> As late as 1894, American businessmen in the Sandwich Islands formed the Republic of Hawaii, which operated as an independent nation for four years. Most dramatically, the Confederate States of America made a bid for political independence from 1861 to 1865.

It is only against this far messier background of American political history that we can see what was unique in the abortive constitution making of the Council of Fifty in March and April of 1844. The urge to found a new republic in the liminal spaces of the continent and author a new constitution for it was not unique. Rather, Mormons stood firmly within an American tradition running from Aaron Burr to Sam Houston. They were not even unique in injecting religion into their constitution writing. John Brown's proposed constitution for a redeemed America spoke in apocalyptic religious terms, and the constitutional preamble beginning "We, the people of the Confederate States" invoked "the favor and guidance of Almighty God."<sup>10</sup> Rather, what is striking is that in their constitution making, the Mormons ultimately turned away from written constitutionalism.

## THE US CONSTITUTION IN MORMON SCRIPTURE

Contemporary Mormons often affirm that their scriptures teach about "the divinely inspired constitution" of the United States.<sup>11</sup> However, the revelations of Joseph Smith do not contain this exact phrase. The Constitution makes its first appearance in those revelations in August 1833.<sup>12</sup> The worsening affairs in Missouri seem to have been on Joseph Smith's mind when he dictated a revelation in which the Lord stated: "And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me. . . . Nevertheless, 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; otherwise whatsoever is less than these cometh of evil" (D&C 98:5, 9–10).

A few months later, having heard the details of the increasingly intense pressure on Mormons in Missouri, Joseph dictated a second revelation, in which the Lord said: "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). These revelations represent the appearance of the US Constitution in the revelations of Joseph Smith, which had previously spoken only of God's law.

From a constitutional perspective, the most striking thing about these passages is how ordinary they are by the standards of the time. The idea that the US Constitution embodied general principles of freedom and justice was widely accepted. Likewise, the providential role of God in the American founding was a commonplace. The revelations also presented a conservative and even anachronistic vision of politics. American politics today could be called a procedural republic, a system where the public interest is supposed to emerge from competition between interest groups pursuing narrow agendas within the context of a supposedly neutral constitutional order.<sup>13</sup> Joseph Smith's revelations, however, did not present the US Constitution in these familiar modern terms. Rather, they presented politics as essentially adjudicative, with "honest men and wise men" (D&C 98:10) and "wise men whom I raised up unto this very purpose" (D&C 101:80) applying the "principle of freedom in maintaining rights and privileges" (D&C 98:5) as "rulers of our land" (D&C 109:54). This vision is republican and aristocratic, focusing on wise statesmen above party or faction. Absent is any valorization of democracy or the common man. In Joseph Smith's revelations, *vox populi* is not *vox dei*; that is, the voice of the people is not the voice of God. Rather, the ideal is of virtuous leaders, what John Adams called a "natural Aristocracy of 'Virtues and Talents,'" <sup>14</sup> disinterestedly applying timeless principles. In this, Joseph Smith's early constitutional revelations hark back to the republican tradition that, in part, animated early American politics.<sup>15</sup> Crucially, for this

adjudicative model of statesmanship, the emergence of organized political parties and mass political movements was problematic. While political parties were well established by Joseph Smith's time, they remained disconcerting for many nineteenth-century Americans.<sup>16</sup> It was difficult for many Americans to see such politics as anything other than a fall from a more noble past into a grubby and amoral tournament of selfish factions.

## A CONSTITUTION FOR THE KINGDOM OF GOD

By 1840, Mormon faith in this constitutional model had been shattered. Events in Missouri had played themselves out to their bitter conclusion, with the expulsion first from Jackson County and then from the entire state. Mormon property had been seized, Mormons had been massacred by mobs, Mormon women had been raped, and Governor Lilburn Boggs had issued his extermination order. Efforts at relief before the courts of Missouri were futile. Finally, Joseph Smith traveled to Washington, DC, to petition the nation's statesmen for relief. There he ran up against the realities of antebellum federalism and the electoral needs of Martin Van Buren's embattled Democratic Party.<sup>17</sup> That disjunction proved decisive for the political development of Mormonism. No relief for the Mormons was forthcoming from the federal government. In the end the federal Constitution was wholly inadequate as a mechanism for protecting Mormon rights, and in Mormon eyes "honest men and wise men" were nowhere to be seen in high office. It was in this context of deepening disillusionment toward the United States and its legal institutions that the Council of Fifty embarked on its constitution-making project.

There are two features of the text presented by Taylor, Richards, Phelps, and Pratt that are immediately apparent. The first is that unlike most efforts at American constitution making, the document was written without copying from an existing constitution. There are, to be sure, echoes of the federal Constitution in its basic structure. The document begins with a preamble announcing its authors as "We, the people of the Kingdom of God"<sup>18</sup> and is divided into articles like the Constitution of 1787. However, there is no copying of governing structure or text from that Constitution or any other. As the committee explained, in writing the document "they cant refer to any constitution of the world because they

are corrupt."<sup>19</sup> The second feature is that the constitution is in no sense a practical document. Only in the final article is there any effort to articulate procedures or institutions for governing a community, and then only in the most skeletal form. In this sense, it is perhaps closer in genre to the Declaration of Independence, which propounded a theory of just government, as opposed to the Constitution of 1787, which contained elaborate rules on such eminently practical subjects as taxation and the spending of government money. As written, the constitution of the kingdom of God was less an effort to construct a working legal system than to set forth a theory of government.

Roughly half of the document consisted of a prolonged preamble condemning all contemporary political arrangements. The preamble concludes:

We have supplicated the great I am, that he would make known his will unto his servants, concerning this, his last kingdom, and the law, by which his people shall be governed: And the voice of the Lord unto us was,— Verily thus saith the Lord, this is the name by which you shall be called, the kingdom of God and his Laws, with the keys and power thereof, and Judgement in the hands of his servants, Ahman Christ.<sup>20</sup>

The second half of the document consists of three articles in which "I . . . the Lord thy God" rather than "We, the people of the Kingdom of God" speaks in the first person. The constitution thus aspires to be a direct revelation from God, consistent with the claim in the preamble that "the supreme law of the land shall be the word of Jehovah,"<sup>21</sup> a stark and perhaps deliberate contrast to article 6 of the US Constitution, which declares that the "supreme Law of the Land" shall be the constitution, laws, and treaties of the United States.<sup>22</sup>

The critique of existing governments begins with the assertion of the sovereignty of God. "All power emanates from God, . . . and he alone has the right to govern the nations and set in order the kingdoms of this world."<sup>23</sup> The "We, the people" of this document is thus fundamentally different than the "We the People" of the constitution of 1787, who claimed themselves as a sufficient font of sovereignty. Mormon political thinking on the nature of sovereignty had already begun moving

in this direction nearly a decade earlier, when the Church's 1835 declaration of beliefs regarding governments stated, "We believe that governments were instituted of God" (D&C 134:1), implicitly rejecting the idea that governments are established by the consent of the governed.<sup>24</sup> By 1844, however, Taylor, Richards, Phelps, and Pratt were prepared to state categorically that all existing governments were illegitimate because "none of the nations, kingdoms or governments of the earth do acknowledge the creator of the Universe as their Priest, Lawgiver, King and Sovereign, neither have they sought unto him for laws by which to govern themselves." Rather "all the nations have obtained their power, rule and authority by usurpation, rebellion, bloodshed, tyranny and fraud."<sup>25</sup> This is a Hobbesian vision of the state unredeemed even by Hobbes's Leviathan.<sup>26</sup>

The preamble also invoked mainstays of American political thought: the rights of man and utility. Because existing governments arise from "usurpation, rebellion, bloodshed, tyranny and fraud," they lack "the disposition and power to grant that protection to the persons and rights of man, viz. life, liberty, possession of property, and pursuit of happiness, which was designed by their creator to all men." The debt to the Declaration of Independence's vision of men "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness" is clear. The usurpations of human governments also result in human suffering. The preamble declares that "the natural results of these illegitimate governments" are "cruelty, oppression, bondage, slavery, rapine, bloodshed, murder, carnage, desolation, and all the evils that blast the peace, exaltation, and glory of the universe." From the cosmic "glory of the universe," the preamble descends to what was no doubt a description of contemporary American politics from the Mormon point of view, insisting that by ignoring God, governments have bred "pride, corruption, impurity, intrigue, spiritual wickedness in high places, party spirit, faction, perplexity and distress of nations."<sup>27</sup> This is the voice of those whose hopes of a political order in the "hands of wise men whom [the Lord] raised up unto this very purpose" (D&C 101:80) had been dashed on the realities of party and regional politics in democratic America. In response to this disappointment, the voice of the Lord in the three articles of the



constitution presents an even more extreme version of this vision of adjudicative politics.

In article 1, the Lord announces that he rules "the armies of heaven above, and among the nations of the earth beneath." He insists that "I alone am the rightful lawgiver to man."<sup>28</sup> Intentionally or unintentionally, this claim mirrors the structure of the US Constitution, where article 1 also begins with the law-making power, declaring in contrast that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."<sup>29</sup> In article 2, "wise men raised up for this very purpose" are replaced with even more inspired agents of God's providence:

I the Lord will do nothing but what I have revealed or shall reveal unto my servants the prophets and I have appointed one man, holding the keys and authority, pertaining to my holy priesthood, to whom I will reveal my laws, my statutes, my ordinances, my Judgements, my will and pleasure concerning my kingdom on the earth.<sup>30</sup>

Wise statesmen adjudicating the public good have been replaced by an inspired prophet announcing God's designs.<sup>31</sup> Both sit above the "pride, corruption, impurity, intrigue, spiritual wickedness in high places, party spirit, [and] faction" of a corrupt democracy. In the Council of Fifty, however, the aristocracy of republican virtue is transformed into the spiritual aristocracy of priestly and prophetic authority. Only in article 3, the single vast final sentence of the document, do we find anything that resembles the ordinary subject of written constitutions, namely governing procedures. "My Servant and Prophet whom I have called and chosen shall have power to appoint Judges and officers in my kingdom, And my people shall have the right to choose or refuse those officers and judges, by common consent. . . . And if the judges or officers transgress, they shall be punished according to my laws."<sup>32</sup> This is also the only place in the constitution in which the will of the people is given any play in the vision of the kingdom of God. It is an attempt to find a place for democracy in a political vision that ultimately rejects the idea of popular sovereignty. The model was clearly the emerging ecclesiology of the Church, in which

members were asked to give their assent and support to the revelations of the leadership.<sup>33</sup>

Taken as a whole, the constitution of the kingdom of God is less a blueprint for a functioning government than an effort to state a philosophy of government. At its center is the absolute sovereignty of God. Acknowledging that sovereignty and following God's laws will lead to the protection of rights to life, liberty, property, and the pursuit of happiness. Disregarding God's sovereignty leads to misery and suffering. In a properly functioning polity, the community is led by benevolent and inspired leaders endowed with divine authority and upheld by the common consent of the people. As to whether their draft was a revelation, however, the authors of the constitution of the kingdom of God expressed their doubts. Upon reporting the committee's work to the council, John Taylor said, "If they can get intelligence from God they can write correct principles, if not, they cannot."<sup>34</sup> But he did not claim that the committee had in fact found that inspiration. They were sent back to work, presumably to search for more "intelligence from God." Parley P. Pratt later gave a hint as to the problem faced by the committee. "If we made a constitution it would be a man made thing, and he considered that if God gave us laws to govern us and we received those laws God must also give us a constitution."<sup>35</sup> It wasn't enough to state a proper theory of government or announce wise legal mechanisms. As the first-person voice of the Lord in articles 1 through 3 testified, the committee believed that they must produce a revelation, something that they did not seem to feel they had done.<sup>36</sup>

## THE ABANDONMENT OF CONSTITUTION WRITING

They were never allowed, however, to complete their work. Rather, in late April Joseph Smith "advised that we let the constitution alone."<sup>37</sup> He summed up the "whole matter about the constitution" in a three-sentence revelation:

Verily thus saith the Lord, ye are my constitution, and I am your God, and ye are my spokesmen. From henceforth do as I shall command you. Saith the Lord.<sup>38</sup>

The revelation ended any further discussion of a written constitution for the kingdom of God. Rather, the council simply abandoned the project and focused its attention on the immediate practical concerns facing the Saints, including their ongoing legal difficulties. They certainly did not abandon the ideal of a political kingdom of God, and they pursued often fanciful plans, such as massive military alliances with American Indian tribes. In that sense, the revelation did not represent any turning away from theocratic ambitions.

Almost exactly two months after reporting his revelation to the Council of Fifty, Joseph Smith was murdered. The April document is the final constitutional statement in Joseph Smith's revelations. As noted above, Joseph's revelations of a decade earlier present a thoroughly conventional political theology in which the federal constitution embodies principles of justice and freedom to be upheld by wise and honest rulers. It is an aristocratic and republican vision rather than a liberal or a democratic one, but it fit within the mainstream of American political thought, albeit in a way that was increasingly anachronistic even when the revelation was given. The adjudicative ideal of republican politics had given way by the 1840s to mass political parties and a politics based on a balancing of sectional interests. Joseph's revelation to the Council of Fifty, however, seems to have finally escaped the gravitational force of American constitutional models. In place of a written document setting forth the formal procedures of government, the sine qua non of American constitution making, the revelation offered an existing body of men endowed with divine authority as all the constitutional structure that was necessary for the kingdom of God.

In September 1897, George Q. Cannon, then an aging counselor in the First Presidency of the Church, spoke at a church conference in Paris, Idaho. Less than a decade earlier, in 1890, President Wilford Woodruff had issued the Manifesto, publicly abandoning plural marriage, bringing the federal government's legal crusade against the Mormons to an end. Just the year before Cannon's sermon, Utah had been formally admitted to the Union as a state. While the Mormon conflict with the nation would dramatically flare up one final time a few years later during the Smoot hearings, Mormonism's theocratic ambitions were at an end, and the political kingdom of God had been postponed to an ever-delayed millennium.<sup>39</sup>

Strikingly, however, Cannon chose to preach on Joseph Smith's April 1844 revelation to the Council of Fifty:

There was an attempt made . . . during the life of Joseph Smith, by some of the priesthood, at the prophet's request, to write a constitution for the kingdom of God. A committee was appointed of the most capable men. They tried and tried to draft it, and so did the prophet himself, but all in vain. Joseph sought the Lord, and he told him: "Ye are the constitution of my church." And so it is; the priesthood, the living oracles, are the word of God unto us, and this constitutes the growth and strength of the kingdom of God.<sup>40</sup>

Cannon's subtle recasting of the precise language of the revelation is telling. Joseph Smith's original "Ye are my constitution" becomes "Ye are the constitution of my church." It is a shift that marks the final afterlife of the prophet's final revelation on the constitution.

## CONCLUSION

Scholars have noted the way in which Mormons after 1890 exchanged theocratic ideas for a vision of Church government where, ideally, righteous and inspired leaders upheld by the consent of members would lead the community in its religious—if not its political—life.<sup>41</sup> The ability of Mormon thinkers in the early twentieth century, such as Orson F. Whitney and James E. Talmage, to make this move was important in creating continuity within Mormon religious discourse even as Mormon political, social, and religious ambitions were radically transformed. This flexibility, which somehow managed to treasure the Mormon experience even as much of it was being repudiated, helped Mormonism to survive and, in many ways, thrive in the modern world. In some sense, this too is a legacy of Joseph Smith's April 1844 revelation. Had the kingdom of God been poured into an inspired written constitution as originally envisioned by Taylor, Richards, Phelps, and Pratt, it would almost certainly have shattered amid the legal battles with the federal government over the "Mormon Question" after the Civil War. The fluid, unwritten structure bequeathed to the kingdom of God by Joseph Smith, however, proved more resilient.

To be sure, nineteenth-century Mormon theologians drew careful—if not always consistent—distinctions between church and kingdom, the Council of Fifty and the Church of Jesus Christ of Latter-day Saints.<sup>42</sup> Still, “ye are my constitution, and I am your God, and ye are my spokesmen” is a constitutional ideal easily taken up in a church populated by prophets and apostles. By shifting theocratic ideas from the political kingdom of God to the ecclesiastical structure of the Church, Cannon and those that followed him could reach back to Joseph Smith’s earliest revelations on the US Constitution without the later constitutional complications of the Council of Fifty.<sup>43</sup> It is a constitutional vision that allows contemporary Latter-day Saints to make their peace with human governments and continue to build up the kingdom of God, albeit in radically different ways than their nineteenth-century forebears attempted.

## NOTES

1. Council of Fifty, Minutes, March 19, 1844, in Matthew J. Grow, Ronald K. Esplin, Mark Ashurst-McGee, Gerrit J. Dirkmaat, and Jeffrey D. Mahas, eds., *Council of Fifty, Minutes, March 1844–January 1846*, vol. 1 of the Administrative Records series of *The Joseph Smith Papers*, ed. Ronald K. Esplin, Matthew J. Grow, and Matthew C. Godfrey (Salt Lake City: Church Historian’s Press, 2016), 54 (hereafter *JSP*, CFM).
2. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:110–15.
3. Council of Fifty, Minutes, April 25, 1844, in *JSP*, CFM:135–37.
4. See, for example, Grant H. Palmer, “Did Joseph Smith Commit Treason in His Quest for Political Empire in 1844?” *John Whitmer Historical Association Journal* 32, no. 2 (2012): 52–58.
5. Echoes of the lost State of Franklin continued to reverberate as late as the Civil War, when east Tennessee supported the Union and attempted to secede from the Confederacy. See Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988), 62.
6. Burr said so many different things to so many different people about his plans that it is difficult to determine his ultimate goals. See Gordon S. Wood, *Empire of Liberty: A History of the Early Republic, 1789–1815*, *The Oxford History of the United States* (New York: Oxford University Press, 2009), 384–85.

7. See Robert L. Tsai, *America's Forgotten Constitutions* (Cambridge, MA: Harvard University Press, 2014), 18–48.
8. See Michael Van Wagenen, *The Texas Republic and the Mormon Kingdom of God*, South Texas Regional Studies, no. 2 (College Station: Texas A&M University Press, 2002).
9. See John A. Hawgood, “John C. Frémont and the Bear Flag Revolution: A Reappraisal,” *Southern California Quarterly* 44, no. 2 (1962): 67–96; George Tays, “California Never Was an Independent Republic,” *California Historical Society Quarterly* 15, no. 3 (1936): 242–43.
10. See Tsai, *America's Forgotten Constitutions*, 83–117; “Constitution of the Confederate States, March 11, 1861,” *The Avalon Project, Yale Law School*, [http://avalon.law.yale.edu/19th\\_century/csa\\_csa.asp](http://avalon.law.yale.edu/19th_century/csa_csa.asp).
11. See, for example, Dallin H. Oaks, “The Divinely Inspired Constitution,” *Ensign*, February 1992, 68–74.
12. See Mark Ashurst-McGee, “Zion in America: The Origins of Mormon Constitutionalism,” *Journal of Mormon History* 38, no. 3 (2012): 90–101.
13. See V. O. Key, *Politics, Parties, & Pressure Groups*, 5th ed. (New York: Crowell, 1964); Richard Hofstadter, *The American Political Tradition: And the Men Who Made It*, reissue ed. (New York: Vintage, 1989). Louis Menand identifies the intellectual origins of this vision in the American pragmatist tradition, which emerged after the Civil War. See Louis Menand, *The Metaphysical Club: A Story of Ideas in America*, Reprint ed. (New York: Farrar, Straus and Giroux, 2002). However, one can find intimations of it, if one is so inclined, as early as *Federalist* No. 10. See Alexander Hamilton, John Jay, and James Madison, *The Federalist: A Commentary on the Constitution of the United States*, ed. Robert Scigliano (New York: Modern Library, 2001), no. 10 (Madison).
14. Thomas Jefferson and John Adams, *The Adams-Jefferson Letters*, ed. Lester J. Cappon (Chapel Hill: University of North Carolina Press and the Omohundro Institute of Early American History and Culture, 1988), 400.
15. See Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill: Published for the Institute of Early American History and Culture at Williamsburg Va. by the University of North Carolina Press, 1998).
16. Compare Wood, *Empire of Liberty*, 34–35. While dated, see also Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780–1840* (Berkeley: University of California Press, 1970). This work traces the historical processes in thought by which American political

leaders slowly edged away from their complete philosophical rejection of a party and hesitantly began to embrace a party system. In the author's words, "The emergence of legitimate party opposition and of a theory of politics that accepted it was something new in the history of the world; it required a bold new act of understanding on the part of its contemporaries and it still requires study on our part." Professor Hofstadter's analysis of the idea of party and the development of legitimate opposition offers fresh insights into the political crisis of 1797–1801, on the thought of George Washington, Thomas Jefferson, James Madison, James Monroe, Martin Van Buren, and other leading figures, and on the beginnings of modern democratic politics."

17. See Ronald O. Barney, "Joseph Smith Goes to Washington," in *Joseph Smith, the Prophet and Seer*, ed. Richard Neitzel Holzapfel and Kent P. Jackson (Provo, UT: Religious Studies Center; Salt Lake City: Deseret Book, 2010), 391–420. Indeed, there is an almost perfect symmetry in the fact that Joseph Smith came to Washington based on a vision of adjudicative politics by a natural aristocracy to meet Van Buren, who wrote one of the first analyses and defenses of mass political parties in American history. See Martin Van Buren, *Inquiry into the Origin and Course of Political Parties in the United States*, ed. Abraham Van Buren and John Van Buren (New York: Hurd and Houghton, 1867).
18. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:110.
19. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:114.
20. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:112–13, underlining in original. Joseph Smith had announced this name earlier to the Council of Fifty, and the name referred not only to the commonwealth to be established but to the council itself, which was conceptualized as the commonwealth in embryo. See Andrew F. Ehat, "'It Seems Like Heaven Began on Earth': Joseph Smith and the Constitution of the Kingdom of God," *Brigham Young University Studies* 20, no. 3 (1980): 253–79.
21. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:112.
22. See US Constitution, art. 6, cl. 2.
23. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:110.
24. While it has been argued that the political theory behind section 134 comes out of the political theory of the Scottish Enlightenment as filtered through the founding generation, Fred Gedicks has persuasively argued that its account of political sovereignty differs markedly from the standard account of American constitutional law. Compare Rodney K. Smith, "James Madison,

- John Witherspoon, and Oliver Cowdery: The First Amendment and the 134th Section of the Doctrine and Covenants,” *Brigham Young University Law Review* 2003, no. 3 Spring (2003): 891–940; Frederick Mark Gedicks, “The Embarassing Section 134,” *Brigham Young University Law Review* 2003, no. Spring (2003): 959–72.
25. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:111, underlining in original.
  26. Compare Thomas Hobbes, *Leviathan: Or, The Matter, Forme, & Power of a Common-Wealth Ecclesiasticall and Civill* (New York: Barnes & Noble Books, 2004), 77. Indeed, in its uncompromising insistence on the exclusive sovereignty of God, the preamble bears more resemblance to classical Islamic legal theories than to the liberal and republican traditions from which the US Constitution emerged. As one historian of Islamic law summed up the classical theory, “Law is the command of God; and the acknowledged function of Muslim jurisprudence, from the beginning, was simply the discovery of the terms of that command.” Noel J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 75. See also Nathan B. Oman, “Preaching to the Court House and Judging in the Temple,” *Brigham Young University Law Review* 2009, no. 1 (2009): 185–87.
  27. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:111–12, underlining in original.
  28. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:113.
  29. US Constitution, art 1, sec. 1.
  30. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:113.
  31. An unsigned February 1844 editorial in the *Times and Seasons* supporting Joseph Smith’s bid for the US presidency stated similar themes. “Who Shall Be Our Next President,” *Times and Seasons*, February 15, 1844, 439–41.
  32. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:113–14.
  33. Compare Richard Lyman Bushman, “The Theology of Councils,” in *In Revelation, Reason, and Faith: Essays in Honor of Truman G. Madsen*, ed. Donald W. Parry, Daniel C. Peterson, and Stephen D. Ricks (Provo, UT: FARMS, 2002), 433–46.
  34. Council of Fifty, Minutes, April 18, 1844, in *JSP*, CFM:114.
  35. Council of Fifty, Minutes, September 9, 1845, in *JSP*, CFM:467.
  36. The process here illustrates how some revealed texts within Mormonism were produced. While the constitution has the Lord speaking in the first person, the



- document itself was the product of a committee and contains clear instances of borrowing from other texts. The committee seem to have understood the voice of the Lord to have been less a matter of taking down divine dictation than of producing a text that they felt confident expressed divine intentions. Compare Scott H. Faulring, "An Examination of the 1829 'Articles of the Church of Christ' in Relation to Section 20 of the Doctrine and Covenants," *Brigham Young University Studies* 43, no. 4 (Winter 2004): 57–91.
37. Council of Fifty, Minutes, April 25, 1844, in *JSP*, CFM:135.
  38. Council of Fifty, Minutes, April 25, 1844, in *JSP*, CFM:135–37. While the written constitution produced by Taylor, Richards, Phelps, and Pratt lodged virtually all power in a single "Prophet whom I have called and chosen," Joseph Smith's revelation addresses a plural audience who are collectively made the constitution. This is consistent with the tendency that Richard Bushman has noted of Joseph Smith to disperse prophetic authority into councils. See Bushman, "Theology of Councils."
  39. See Kathleen Flake, *The Politics of American Religious Identity: The Seating of Senator Reed Smoot, Mormon Apostle* (Chapel Hill: University of North Carolina Press, 2004).
  40. "Cannon on Politics," *Salt Lake Herald*, September 16, 1897, 5. There is no contemporary evidence that Joseph Smith participated in the effort to draft the written constitution for the kingdom of God. Cannon was not a member of the Council of Fifty at the time, although he was later close to men who were. Strikingly, Cannon's remarks allude to the recent decision to drop Moses Thatcher from the Quorum of the Twelve as a result of conflicts with the First Presidency over the role of church leaders in partisan politics. The controversy was one of the first steps towards defining the more limited political role of the Church in the post-Manifesto era. See Kenneth W. Godfrey, "Moses Thatcher in the Dock: His Trials, the Aftermath, and His Last Days," *Journal of Mormon History* 24, no. 1 (1998): 54–88; Edward Leo Lyman, "The Alienation of an Apostle from His Quorum: The Moses Thatcher Case," *Dialogue: A Journal of Mormon Thought* 18 (Spring 1985): 67–91.
  41. Patrick Q. Mason, "God and the People: Theodemocracy in Nineteenth-Century Mormonism," *Journal of Church and State* 55, no. 3 (Summer 2013): 373–75.
  42. See, for example, Benjamin F. Johnson's comments in his autobiography, quoted in Jedediah S. Rogers, ed., *The Council of Fifty: A Documentary History* (Salt Lake City: Signature Books, 2014), 32.

43. Kathleen Flake has documented a similar dynamic in this period, during which Joseph Smith's accounts of the First Vision first gained wide prominence and the early efforts to preserve Mormon historic sites were made, allowing Joseph F. Smith and other turn-of-the-century Mormons to claim the history of the Restoration, even as they abandoned polygamy and dramatically transformed the meaning of Latter-day Saint Zion building. See Flake, *Politics of American Religious Identity*, 109–37.