Introduction: The Kingdom of God among the Imagined Republics

In the spring of 1844, Joseph Smith created a secret organization, the Council of Fifty, consisting of high church officials and civic leaders 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. This grandiose and abstract goal came amidst 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 question of where to locate the projected Mormon commonwealth and how to escape from hostile governments in Illinois and Washington, D.C. On March 11, 1844, the Council appointed a committee of John Taylor, Willard Richards, W.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.” Slightly more than a month later, on April 18th, the committee reported a draft constitution to the entire Council. The authors, however, expressed their dissatisfaction with what they have produced, and it was returned to committee. 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 the rest of its efforts to the more immediate problems facing the Saints, ultimately culminating in the abandonment of Nauvoo after Joseph Smith’s murder and the relocation en mass of the Mormons to the Great Basin.

---

1 Matthew J. Grow et al., eds., *Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846* (Salt Lake City, UT: Church Historian’s Press, 2016), 54.
2 See ibid., 110–115.
3 See ibid., 134–135.
This bare statement of events casts the Mormons as radicals, operating dramatically apart from the American political tradition. 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 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.

The problem is that the narrative of smooth national expansion through a system of settlement, territorial government, and finally statehood is false. In the nineteenth century, North America was littered with abortive republics seeking varying levels of independence from the federal government and 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. 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 to Jefferson in 1806. 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

---

4 For example, Grant Palmer, who seems to have an unerring gift for articulating contemporary Mormon anxieties about their radical past, has analyzed Joseph Smith and the Council of Fifty in terms of treason against the United States. See Grant H. Palmer, “Did Joseph Smith Commit Treason in His Quest for Political Empire in 1844?,” *The John Whitmer Historical Association Journal* 32, no. 2 (2012): 52–58.

between Canada and the United States declared the tiny Indian Stream Republic. 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 for a decade from 1836 to 1846. 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. 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.

In this welter of imagined states, drafting a written constitution, far from being a radical gesture, was a well-established political ritual. Most of these would-be constitution writers self-consciously modeled their work on the Constitution of the United States or state constitutions. Hence, for example, the republics of Texas and Hawaii both had presidents and congresses, and the constitution of the Confederate States of America copied much of the federal constitution verbatim. Which is not to say that these documents didn’t self consciously seek to correct the perceived failures in their models. Nineteenth-century Americans were frequently critical of the constitution of 1787 and willing to experiment. Likewise, the apparently stable and well-established route from territory to statehood was in fact ad hoc and anything but legally clear or well-established. Thomas Jefferson called the 1820 controversy over the admission of Missouri a “fire bell in the night, [that] awakened and filled me with terror.” He went one, “I considered it at once the knell of the Union.” Even more spectacularly, the controversy over the Taney Court’s

---

9 See Tsai, America’s Forgotten Constitutions, 1–15.
territorial jurisprudence in *Dred Scott v. Sandford*\(^\text{13}\) galvanized the nascent Republican Party and helped to bring on the Civil War.

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 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. What was unique was their effort to cast these forms in religious terms and their ultimate turning away from written constitutionalism.

**The Constitution in Joseph Smith’s Revelations and Early Mormon Experience**

Mormon political theology began with Joseph Smith’s revelation commanding the Saints to gather for the formation of the New Jerusalem.\(^\text{14}\) Mormonism emerged from a welter of competing millenarian sects. As their name affirmed, the Latter-day Saints believed that they were living in the end times. However, despite their sense of the immediacy of Christ’s return, Mormons ultimately located the millennium in space rather than time.\(^\text{15}\) The question was less precisely *when* the *parousia* would occur than *where* the Saints should begin establishing Zion to meet it. As a result of the gathering, Latter-day Saints formed concrete Mormon communities, which in the democratic context of Jacksonian America meant that they inevitably found themselves wielding political power and influence, to the horror of their non-Mormon neighbors. The gathering thus imposed two imperatives on Mormon thought. The first was to imagine the shape of the Zion to be built by the Saints. The second was to cope with both the practical and cognitive problems created by Gentile hostility to their efforts to realize that Zion. It was this second issue that gave rise to Joseph Smith’s revelations about the constitution.

---

\(^{13}\) 60 U.S. 393 (1857).


Contemporary Mormons often affirm that their scriptures teach about “the divinely inspired constitution” of the United States. However, the revelations of the Joseph Smith do not contain this phrase. The constitution makes its first appearance in those revelations in August, 1833. In July of that year, Mormon leaders in Missouri were forced to agree to the abandon their Zion in Jackson County. Joseph Smith, however, was located in Kirtland, Ohio at the time and was unaware of the expulsion of the Saints. Nevertheless, the worsening affairs in Missouri seem to have been on his mind at the time 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. Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land; and as pertaining to the law of man, whatsoever is more or less than this, cometh of evil. I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free. 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 98:4-10)

A few months later, having heard the details of the increasingly intense pressure on Mormons in Missouri, Joseph penned 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)

Even as late as 1836, the Kirtland Temple dedication pleaded with the Lord, “have mercy upon the rulers of our land; may those principles, which were so honorably and nobly defended, namely,

---

the Constitution of our land, by our fathers, be established forever.” (D&C 109:54)

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 U.S. Constitution embodied in part general principles of freedom and justice was widely accepted. Likewise, the providential role of God in the American founding was a commonplace. Furthermore, they present a conservative and even anachronistic vision of politics. Modern political scientists have identified contemporary American politics with what they call the procedural republic, a system where the public interest emerges from competition between interest groups pursuing narrow agendas within the context of a supposedly neutral constitutional order.18 Joseph Smith’s revelations, however, do not see the U.S. constitution in these familiar modern terms. Rather, they present 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 essentially republican and elitist, focusing on wise statesmen above party or faction. Absent is any valorization of democracy or the common man. In the voice of Joseph Smith’s God, vox populi is not vox dei. Rather, the ideal is of a virtuous leader 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.19 Crucially, this adjudicative model of statesmanship made the emergence of organized political parties and mass political movements disconcerting for many nineteenth-century Americans.20 It was difficult to see such politics as anything other than a fall


from a more noble past into a grubby and amoral tourney of selfish factions.\footnote{Consider, for example, how John Taylor presented the pursuit of private interests in politics in 1852: Those private, jarring interests have kept the world in one continual ferment and commotion from the commencement until the present time; and the history of the world is a history of the rise and fall of nations—of wars, commotions, and bloodshed—of nations depopulated, and cities laid waste. Carnage, destruction, and death, have stalked through the earth, exhibiting their horrible forms in all their cadaverous shapes, as though they were the only rightful possessors. John Taylor, \textit{The Government of God} (Liverpool: S.W. Richards, 1852), 8.}

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, in obedience to an 1834 revelation commanding him to seek redress, Joseph Smith traveled to Washington, D.C. 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.\footnote{See Ronald O. Barney, “Joseph Smith Goes to Washington,” in \textit{Joseph Smith, the Prophet and Seer}, by Richard Neitzel Holzapfel and Kent P. Jackson (Provo, Utah: Religious Studies Center, Brigham Young University, 2010), 391–420; Richard Lyman Bushman, \textit{Joseph Smith: Rough Stone Rolling} (New York: Alfred A. Knopf, 2005), \textit{——}.} Indeed, there is an almost perfect symmetry in the fact that Joseph Smith came to Washington based on a vision of elite adjudicative politics to meet Van Buren, who wrote and posthumously published one of the first analyses and defenses of mass political parties in America.\footnote{See Martin Van Buren, \textit{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).} That disjunction proved decisive for the political development of Mormonism. In the end the federal constitution proved 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. This sense of betrayal and alienation was only deepened by the murders of Joseph and Hyrum Smith. In spring 1845, W.W. Phelps said before the Council of Fifty, “[W]hat is the patriotism of these United States – fifteen thousand souls driven from their homes in Missouri and no means made use of to restore them to us, or redress our wrongs and to finish off with, they have spilt our best blood.”\footnote{Grow et al., \textit{Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846}, 288.} More poignantly, during the same period, Heber C. Kimball made a motion before the Council “that we declare ourselves an independent nation,” to which Orson Pratt replied “he did not think it necessary inasmuch as the
nation has already made us independent.”

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.

**The Written Constitution of the Kingdom of God**

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 very basic structure of the document. It begins with a preamble announcing its authors as “We the people of the people of the Kingdom of God” 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.”

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 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 the name by which you

---

25 Ibid., 454.
26 Ibid., 110.
27 Ibid., 114.
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,²⁸

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,”²⁹ a stark and perhaps deliberate contrast to
Article VI of the U.S. Constitution, which declares that the “supreme law of the law” shall be the
constitution, laws, and treaties of the United States.³⁰

The critique of existing governments begins with the assertion of the sovereignty of God.³¹ “[A]ll
power emanates from God … and he alone has the right to govern the nations and set in order the
kingdoms of this world.”³² The “We the people” of this document is thus fundamentally differ-
ent than the “We the people” of the constitution of 1787, which claimed itself as a sufficient font of
sovereignty.³³ 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:

²⁸ Ibid., 112. 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): ___.
²⁹ Grow et al., Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846, 111.
³⁰ See U.S. Const. art. vii, cl. 2 (“This Constitution, and the Laws of the United States which shall be made in
Pursuance thereof; and all Treaties made, or which shall be made in Pursuance thereof; and all Treaties made,
or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the
Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary
notwithstanding.”).
³¹ The structure and language of the argument of the preamble is strikingly similar to the arguments that John
Taylor was to lay out in an 1852 pamphlet. It’s possible, of course, that both were simply influenced by the
ideas promulgated or discussed in the Council of Fifty or that the constitution of the kingdom of God influenced
Taylor’s later writings. I suspect, however, that John Taylor was the author of at least the preamble. Compare
³² Grow et al., Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846, 110.
³³ Compare U.S. const. preamble (“We the people of the United States, in order to form a more perfect union,
establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and
secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the
United States of America.”)
We believe that governments were instituted of God for the benefit of man; and that he holds men accountable for their acts in relation to them, both in making laws and administering them, for the good and safety of society. (D&C 134:1)\textsuperscript{34}

By 1844, however, Taylor, Richards, Phelps, and Pratt were prepared to state categorically that all existing governments are 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.”\textsuperscript{35} Rather “all nations have obtained their power, rule and authority by usurpation, rebellion, bloodshed, tyranny and fraud.”\textsuperscript{36} This is a Hobbesian vision of the state unredeemed even by Hobbes’s contractual justification for Leviathan.\textsuperscript{37} Indeed, in its uncompromising insistence on the exclusive sovereignty of God, the preamble bears a more striking resemblance to classical Islamic legal theories than to the liberal and republican traditions from which the U.S. Constitution emerged.\textsuperscript{38}

Despite the stark theocentricism of this theory of political legitimacy, the preamble also invoked two ideas familiar to liberal democratic theory: the rights of man and utility. Because existing governments arise from “usurpation, rebellion, bloodshed, tyranny and fraud” they lack “the


\textsuperscript{35} Grow et al., Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846, 111.

\textsuperscript{36} Ibid.


\textsuperscript{38} As one historian of Islamic law summed up the classical theory:

Western jurisprudence has provided a number of different answers to the question of the nature of law, variously finding its sources to lie in the orders of a political superior, in the breasts of the judiciary, in the “silent, anonymous forces” of evolving society, or in the very nature of the universe itself. For Islam, however, this same question admits of only one answer which the religious faith supplies. 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.

disposition and power to grant the protection of the persons and rights of man, viz life, liberty, possession of property, and pursuit of happiness, which was designed by the creator of 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, “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.” This is the voice of someone whose hopes of a political order in “hands of wise men whom [the Lord] raised up unto this very purpose” (D&C 101:80) have 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 vision 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 goes on to insist that “I alone am the rightful law giver of man.” Intentionally or unintentionally, this claim mirrors the structure of the U.S. Constitution, where article 1 also begins with the law making power, declaring in contrast that “[a]ll legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” 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

---

40 Ibid., 112.
41 Ibid., 111.
42 Ibid., 114.
43 Ibid.
44 U.S. const. art I §1.
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.\textsuperscript{45}

Wise statesman adjudicating the public good, have been replaced by inspired prophets announcing God’s designs. Both sit above the “pride, corruption, impurity, intrigue, spiritual wickedness in high places, party spirit, faction” of a corrupt democracy. In the Council of Fifty, however, the elitism of republican virtue is transformed into the spiritual elite of priestly and prophetic authority. Only in article 3, which is literally 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 to appoint Judges and officers in my kingdom, and my people shall have the right to choose or refuse those officers by common consent…and if the judges or officers transgress, they shall be punished according to my laws.”\textsuperscript{46} This is also the only place in which the will of the people is given any play in the vision of the Kingdom of God. This is a far cry from the democratic elections of the expanding Jacksonian electorate. As a constitutional matter, it looks rather more like the assemblies of the Roman Republic, copied during the French Revolution, in which voters were allowed only to approve or veto the proposals of magistrates.\textsuperscript{47} The Mormon model, however, 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.\textsuperscript{48}

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

\textsuperscript{45} Grow et al., \textit{Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846}, 114.
\textsuperscript{46} Ibid.
by benevolent and inspired leaders endowed with divine authority and upheld by the common consent of the people. As a statement of divine principles, however, its authors 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.” He did not, however, claim that the committee had in fact found that “intelligence.” 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. “[I]f 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.” 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 believe that they must produce a revelation, something that they did not seem to feel they had done.

**Joseph Smith’s Final Constitutional Revelation**

They were never allowed, however, to complete their work. Rather, in late April Joseph Smith “advised that we let the constitution alone.” Rather, 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.

---

50 Ibid., 467.
51 The process here is instructive of how 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 contained clear instances of borrowing from other texts. They 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 (recounting the production of the uncanonized “Articles of the Church of Christ,” while also have God speaking in the first person).
53 Ibid., 137. It is interesting to note, that 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, “The Theology of Councils.”
The revelation ended any further discussion of a written constitution for the Kingdom of God. Writing without the benefit of full access to the minutes of the Council of Fifty, Andrew F. Ehat claimed, “[g]iven the unwritten nature of the Constitution of the Kingdom” after Joseph Smith’s revelation that the internal parliamentary procedures of the Council took on “constitutional proportions.” However, there isn’t much evidence that the members of the Council regarded these parliamentary rules as somehow foundational. Rather, with this revelation, the Council simply abandoned the constitution writing project and focused its attention on the immediate practical concerns facing the Saints, including their on-going legal difficulties of one kind or another. They certainly did not abandon the ideal of a political Kingdom of God, and pursued often fanciful plans, such as massive military alliances with native American tribes. In that sense, the revelation did not represent a turning away from theocratic ambitions. I believe, however, that it did represent an important turning point in Mormon legal thought and experience in two ways. First, it represents the final resting place of the constitution as a concept in the revelations of Joseph Smith. Second, it helped to set the course for later developments in Mormon legal thinking and action.

Almost exactly two months after reporting his revelation to the Council of Fifty, Joseph Smith was murdered in the Carthage Jail. This document thus represents the final statement on the constitution in Joseph Smith’s revelatory oeuvre, albeit one that was never canonized. As noted above, Joseph’s revelations of a decade earlier on the constitution present a thoroughly conventional political theology in which the constitution embodies principles of justice and freedom to be upheld by wise and honest rulers. It is an elitist and republican vision rather than a liberal or a democratic one, but it very much fits within the mainstream of American political thought, albeit in a way that was anachronistic even when the revelation was given. The adjudicative ideal of republican politics was giving way by the 1830s 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.

54 Ehat, “‘It Seems Like Heaven Began on Earth’: Joseph Smith and the Constitution of the Kingdom of God,” 6.
55 This is not to claim that such elements weren’t also present earlier in American politics. Certainly, the early republic’s politics involved much sectional bickering and balancing.
In place of a written document setting forth the formal procedures of government, the sine non qua 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.

This does not mean that the ideas expressed in the written constitution of the Kingdom of God became irrelevant. The theodemocratic vision that Taylor, Richards, Phelps, and Pratt sought to articulate in their draft continued to dominate Mormon thinking and even public Mormon political discourse. As the Twelve put it in a proclamation issued in 1845:

The city of Zion, with its sanctuary and priesthood, and the glorious fullness of the gospel will constitute the standard which will put an end to jarring creeds and political wranglings, by uniting the republics, states, provinces, territories, nations, tribes, kindred, tongues, people and sects of North and South America in one great common bond of brotherhood; while truth and knowledge shall make them free and cement their union.

The Lord also shall be their king, and their law-giver, while wars shall cease and peace prevail for a thousand years. Thus shall American rulers, statesmen, citizens, and savage know “this once” that there is a God in Israel, who can utter his voice and it shall be fulfilled.56

Members of the Council of Fifty continued to speak of themselves as legal actors in some cosmic sense, implementing the laws of God. Whatever that was to mean, however, it did not involve casting those laws in the forms familiar to American politics, namely as written rules and procedures. In this, the Kingdom of God differed from the other imagined republics of the nineteenth-century North America. Even the tiny Indian Stream Republic, for example, was legislatively loquacious, producing constitutions and legal codes in great abundance.

Which is not to say that as the Mormons sought to create the Kingdom of God in the decades after 1844 that they did not also produce law in great abundance. They did. The State of Deseret and

---

the Territory of Utah, under the direction of ecclesiastical leaders, produced multiple constitutions and volumes of legislation. The character of this legislation, however, was decisively influenced by Joseph Smith’s revelation. One of the striking things about subsequent Mormon history is the relative lack of Mormon legal innovations. The effort to create the Kingdom of God on earth was by no means abandoned after Joseph Smith’s murder. If anything it intensified with the hegira to the Great Basin. Furthermore, the Council of Fifty continued to regard itself as a law giving body, and its minutes are filled with discussions of law, both in the cosmic sense of God’s law and in the consideration of the endless and often technical legal challenges that the Mormons faced. (For example, at one point, members of the Council debated the arcane question of whether the U.S. Constitution allowed Congress to appoint an officer in the U.S. Army.57) However, for all of their self-conception as law givers and their constant interest in legal matters, Mormon leaders in Nauvoo and later in Utah produced very little law that strongly reflected their theocratic ambitions.58 Most strikingly, never again would Mormons seek to author a unique constitution for their commonwealth, even when they adopted unorthodox procedures for promulgating it.59 Rather, in the series of constitutions drafted by the Mormons for their territory between 1847 and 1896, they uniformly chose to copy the constitution of an existing state.60

It is dangerous, of course, to imagine that that the revelation had great influence on later events. It was produced in a particular time and place amidst a myriad of other concerns. Furthermore, the Council of Fifty itself ceased to be an important factor in Mormon governance after 1845.61 For the rest of the century, Mormon leaders were constantly responding to particular circumstances

57 Grow et al., Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846, ___.
58 This isn’t entirely true, of course. The Utah Territorial Legislature, for example, passed a number of laws designed to make the decisions of church courts in civil cases legally binding, although the statutes never seem to have operated as intended. See Oman, “Preaching to the Court House and Judging in the Temple,” 181–191. Likewise, the State of Deseret adopted a criminal code in 1851 that provided for execution by beheading for murder, which may have been a nod to Brigham Young’s doctrine of blood atonement. See Dale Morgan, The State of Deseret (Logan, Utah: Utah State University Press, 1987), 177 (reproducing the ordinance).
59 See Peter Crawley, The Constitution of the State of Deseret (1982) (Provo, Utah: Friends of the Harold B. Lee Library, 1982) (arguing that the published record of the first constitutional convention of the State of Deseret is a record of an event that in fact never occurred, the recording being a modification of minutes from Church meetings).
60 See Jean Bickmore White, Charter for Statehood: The Story of Utah’s State Constitution (Salt Lake City, Utah: Univ of Utah Press, 1996).
in their legal maneuverings and they often exhibited great pragmatism in grasping at whatever legal theory or device of the moment would suit their ends. Nevertheless, a half century later John Taylor continued to think of the revelation. Speaking to a reconstituted Council of Fifty in the 1880s, he said:

> These words are pregnant with meaning & full of intelligence & point out our position in regard of these matters – it is expected of us that [we] can act right – that our interests [are] bound up in the the K[ingdom] of God. That we should consider we are not acting for ourselves, but we are the Spokesmen of God selected for that purpose in the interest of God & to bless & exalt all humanity. We acknowledge him as our God and all men who enter this body must acknowledge him here. There is peculiary [sic] significance in these things which needs some consideration.62

More important than any conscious reliance on the revelation, however, was the brute fact that in 1844 Mormon leaders abandoned any effort to express their political Kingdom of God in the lingua franca of American government, namely a written constitution. They might have done so. Indeed, in March, 1844 that is precisely what they set out to do. Brigham Young and the Mormons are often presented as supremely practical, and it is tempting to see in the conventional constitutional copying after 1847 simple pragmatism. But it is important to remember that on many things the successors of Joseph Smith were anything but practical. Plural marriage was not practical. In many ways the gathering was not practical. The United Orders of the Utah period were not practical. All of these projects involved vast expenditures of effort and created often intense conflict within and outside the Church. Had the Council of Fifty produced an elaborate written constitution in 1844, it’s far from implausible to imagine the Mormons of later decades doggedly struggling to implement it. Instead, Mormon theocracy in the nineteenth century used thoroughly conventional legal mechanisms to pursue its ends, relying on ecclesiastical structures and a unique religiously infused political culture rather than formal constitutional structures. It was set on this course by Joseph Smith’s revelation on the constitution of the Kingdom of God in late April, 1844.

---

62 Taylor made this statement at a meeting of the Council of Fifty held on April 8, 1881. Quoted in Ehat, “‘It Seems Like Heaven Began on Earth’: Joseph Smith and the Constitution of the Kingdom of God,” 5–6.
Conclusion

In a fine essay on Mormon political thought in the nineteenth century, Patrick Mason notes the way in which the ideas of theodemocracy were cabined after 1890 into an 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.63 The ability of Mormon thinkers 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, is in part what allowed Mormonism to survive and in many ways thrive in the modern world. In some sense, this too is a legacy of Joseph Smith 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 amidst the post-Civil War battles over the “Mormon Question.” The fluid, unwritten structure bequeathed to Mormonism 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. Still, “ye are my constitution, and I am your God, and ye are my spokesmen” is a constitutional ideal easily taken up by a church populated by prophets and apostles. It is a constitutional vision that allows contemporary Latter-day Saints to continue to build up the Kingdom of God, albeit in radically different ways than their nineteenth century forbearers.

63 Mason, “God and the People,” ___.

Appendix: The Constitution of the Kingdom of God

Below is the text of the proposed Constitution for the Kingdom of God reported to the Council of Fifty by the committee of John Taylor, Willard Richards, W.W. Phelps, and Parley P. Pratt. I have reformatted it from Matthew J. Grow et al., eds., *Joseph Smith Papers: Council of Fifty Minutes, March 1844-January 1846* (Salt Lake City, UT: Church Historian’s Press, 2016), 110-114.

We, the people of the Kingdom of God, knowing that all power emanates from God, that the earth is his possession, and he alone has the right to govern the nations and set in order the kingdoms of this world; that he only has a right to institute laws and establish decrees for the government of the human family; that he is our Father in heaven; and we, his legitimate children, inhabiting his footstool, and that no rule, law, government, dominion or power, unless instituted by him, can be productive of the greatest happiness, prosperity, exaltation and glory of his subjects:

— And knowing also that 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;

— And knowing also, that there is not an original kingdom on the earth that holds the rightful authority from the king of Kings and Lord of Lords, to govern his subjects: but that all the nations have obtained their power, rule and authority by usurpation, rebellion, bloodshed, tyranny and fraud;

— And knowing also, that no government, which has thus originated, has 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; but that the cruelty, oppression, bondage, slavery, rapine, bloodshed, murder, carnage, desolation, and all the evils that blast the peace, exaltation, and glory of the universe, exist in consequence of unrighteous rule, and unlawful dominion, by which the pure, the patriotic, the noble, the virtuous, the philanthropic, the righteous and wise servants of God have
been persecuted, hunted, whipped, scourged, exiled, massacred, sawn asunder, crucified and slain in all ages of the world, under all earthly authorities, and by every form of government, from the days of murderous Cain, to the days of the exterminating [Lilburn W.] Boggs of Missouri; And that all the pride, corruption, impurity, intrigue, spiritual wickedness in high places, party spirit, faction, perplexity and distress of nations, are the natural results of these illegitimate governments:

— And knowing that God hath created all men free and equal:

— And having sought in vain among all the nations of the earth, to find a government instituted by heaven; an assylum for the opprest; a protector of the innocent, and a shield for the defenseless:

— an impenetrable Aegis for the honorable of all nations; uncorrupted by the usurpations of designing men, the contaminating influence of the love of Gold, and the lawless intrigues of aspiring demagogues:

— unfettered by unrighteous legislation, and untrammelled by the mandates of an unjust judiciary; not degraded by a superstitious or religious influence: A Realm where liberty spreads undivided and operates unspent; and where truth and virtue are the centre and circumference of the nation; are as enduring as the hills of eternity, and as omnipotent as the voice of Jehovah:

— To hasten the accomplishment of his purposes: To fulfil the predictions of the prophets to establish a pure government; to lift up an ensign to the nations, and establish a standard for all people, that the strength, and the power, and the glory, and the exaltation, and the kingdom, and the dominion under the whole heavens, may become the kingdom of our God and of his Christ, as has been predicted by all the holy prophets since the world began, to be brought to pass on the earth in the last days; where peace, union, harmony, fellowship, philanthropy, benevolence, virtue, and brotherly love shall reign triumphantly together in the bosom of every subject and where the elements, the light, the air, the water and the land shall be
as free as the gift of their creator; where we can rest under the shadow of his wing.316 and where
the supreme law of the land shall be the word of Jehovah:

— 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,

Art. 1st. I Am, the Lord thy God, ruleing the armies of heaven above, and among the nations of
the earth beneath; I have created all men of one blood; I set up one, and I put down another, and
to me alone belongs the right, the power, the majesty, the glory, and the dominion; I alone
am King of Kings, and Lord of Lords; I alone am the rightful lawgiver to man; I alone have a
right to judge the inhabitants of the earth, which is my footstool; and I will acknowledge
no other law, rule, power, Authority or dominion, than that which is instituted by me, the
great I Am. And no other government, Kingdom, Dominion, authority, power, rule, or law,
shall be acknowledged by my people.

Art. 2nd. 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.

Art. 3rd. And 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 the judges who shall be approved
by my people shall condemn the guilty, and let the innocent go free! And shall have power to
execute, and shall execute, justice and judgement in righteousness, and punish
transgressors throughout all my
kingdom on the earth; and if the judges or officers transgress, they shall be punished
according to my laws.—
Bibliography


