



1-1-1961

Theory and Practice of Church and State During the Brigham Young Era

J. Keith Melville

Follow this and additional works at: <https://scholarsarchive.byu.edu/byusq>

Recommended Citation

Melville, J. Keith (1961) "Theory and Practice of Church and State During the Brigham Young Era," *BYU Studies Quarterly*. Vol. 3 : Iss. 1 , Article 5.

Available at: <https://scholarsarchive.byu.edu/byusq/vol3/iss1/5>

This Article is brought to you for free and open access by the Journals at BYU ScholarsArchive. It has been accepted for inclusion in *BYU Studies Quarterly* by an authorized editor of BYU ScholarsArchive. For more information, please contact scholarsarchive@byu.edu, ellen_amatangelo@byu.edu.

Theory and Practice of Church and State During the Brigham Young Era

J. Keith Melville

The doctrinal ideas of nineteenth-century Mormonism were unique in many respects. Fundamentally it was a religious movement, propounding distinctive tenets as to deity, revelation, priesthood, and so on, but it also contained significant economic, social, and political ideological overtones. Much attention has been drawn to certain religious, economic, and social facets of Mormonism, but comparatively little to its political concepts.

The ultimate political goal of the Latter-day Saints was to establish the Kingdom of God on earth in order that the "kingdom of heaven may come" and that the millennial reign of Jesus Christ begin.¹ Restricted Christian concepts of a spiritual kingdom were expanded to include an earthly kingdom with all of the political connotations of existing political systems. Suggestive of this was the interesting organization known as the Council of Fifty, which was considered as the legislature of the Kingdom of God.² This kingdom, a politico-religious organization of world-wide proportions as conceived by the Mormons, was ultimately to assume sovereignty over all of the kingdoms of the world. Illustrative of this view was

Dr. Melville is assistant professor of political science at Brigham Young University.

¹*The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints* (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 1947), Section 65.

²Initiatory explorations of the political significance of the Council of Fifty have been made by Hyrum Andrus, *Joseph Smith and World Government* (Salt Lake City: Deseret Book Company, 1958); James R. Clark, "The Kingdom of God, the Council of Fifty and the State of Deseret," *Utah Historical Quarterly*, XXVI (1958), 130-148; and Klaus J. Hansen, "The Theory and Practice of the Political Kingdom of God in Mormon History, 1829-1890" (Thesis, Brigham Young University, 1959); but speculative leaps result from the incomplete sources of information. A definitive study is yet to be written.

a letter of Parley P. Pratt to Queen Victoria of England in which he invited her and her nation to join this momentous revolution. "Know assuredly," he wrote, "that the world in which we live is on the eve of a REVOLUTION, more wonderful in its beginning—more rapid in its progress—more lasting in its influence—and more important in its consequences,—than any which man has yet witnessed upon the earth; a revolution in which all the inhabitants of the earth are vitally interested, both religiously and politically—temporally and spiritually; one on which the fate of all nations is suspended, and upon which the future destiny of all the affairs of earth is made to depend."³ He warned the "Sovereign and people" of England to repent and turn to the Lord. As the elements of clay and iron will not mix, neither will there be unity of the independent kingdoms of the world. He concluded: "The kingdoms of *this world shall become the kingdoms of our God and his Christ.*"⁴

The leaders of the Church believed that the kingdom began with the establishment of the Church and that it would grow to its grandiose proportions at the advent of the Savior, when He would rule as king. In the interim converts of the Mormon proselyters not only joined a religious movement, but became citizens in the newly established kingdom.

How did this basic notion of the Kingdom of God equate with the American ideas of freedom of religious worship and separation of church and state?⁵ A review of Mormon history down to the death of Joseph Smith points out the fact that much of the turbulence can be traced to political conflicts, especially to interpretations or misinterpretations of the political beliefs and ambitions of the Mormons as an attempt to unite church and state. What were the attitudes of the Mormon

³Parley P. Pratt, *To Her Gracious Majesty, Queen Victoria* (Manchester: P. P. Pratt, 1841), p. 1. See also *Times and Seasons*, III, 592.

⁴*Ibid.*, Italics in original.

⁵It should be noted that the First Amendment limitation on the federal government that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." interpreted historically suggests it was not a statement of separation of church and state, but a protection of the established state religions in the individual states. However, the ideas of freedom of religious worship and the merger of church and state were generally considered as contradictory.

THEORY AND PRACTICE OF CHURCH AND STATE 35

leaders in general and Brigham Young in particular on this issue?

The first adherents to Mormonism were New Yorkers of New England origin who were deeply steeped in the American tradition. Not only was the Constitution of the United States revered as an excellent framework of government; the Church believed it was divinely inspired.⁶ In addition, the philosophy of the Mormons was one of compliance with and obedience and subjection to the laws of the land. The perceptible exception was applied to governmental authorities who, according to the Mormons, acted illegally or unconstitutionally.

When the Mormons did not receive what they thought were their rights from the governmental authorities, they were not reluctant to enter the struggle of politics. They attempted to use their influence with the federal government when seeking redress of their Missouri grievances. They gained a charter for the city of Nauvoo with wide powers because they held the balance of power between the two existing political parties in Illinois. When this position of political strength ebbed from them during the last days in Nauvoo, the Mormons actively sought political support from the federal government once again. As the election of 1844 approached, a canvas of the probable candidates brought little hope of support for the Mormon interests from any of them. A plan to promote Joseph Smith as a candidate for President of the United States marshalled the proselyting energies of at least 244 and possibly as many as 340 of the Mormon Elders to spread the political program of Joseph Smith throughout the United States, as well as preach the gospel. Brigham Young, because of his position as President of the Twelve Apostles, became an active political campaign manager stumping the eastern states in behalf of his "prophet and politician."

Smith's candidacy raised the issue of church and state in the 1844 campaign and no doubt increased the fears of his opponents as to political intentions. He suggested his political desires in an address to a group of workmen on the Temple in Nauvoo in 1843:

⁶*Doctrine and Covenants*, Sections 98 and 101.

There is one thing more I wish to speak about, and that is political economy. It is our duty to concentrate all our influence to make popular that which is sound and good and unpopular that which is unsound. 'Tis right, politically, for a man who has influence to use it, as well as for a man who has no influence to use his. From henceforth I will maintain all the influence I can get. In relation to politics, I will speak as a man; but in relation to religion I will speak in authority.⁷

Fears that Smith would unite church and state if made President of the United States were no doubt amplified by his statement:

As the "*World is governed too much*" and as there is not a nation or dynasty, now occupying the earth, which acknowledges Almighty God as their law giver, and as "crowns won by blood, by blood must be maintained," I go emphatically, virtuously, and humanely, for a THEODEMOCRACY, where God and the people hold the power to conduct the affairs of men in righteousness.⁸

Did this mean the election of Joseph Smith would bring to the head of the United States a person who professed to commune with God, to report His will and desires, to direct affairs of state in a religious way, and ultimately merge *sacerdotium et imperium*? Many were fearful that it did. The Latter-day Saints would have welcomed it, but what they would have welcomed was far removed from what they detected as the despotism which resulted from the theocracies of the Old World, or nations where the "two swords" were wielded by one sovereign.

What the Latter-day Saints visualized was a balance. Religion was not to be aligned with the state in any dangerous or oppressive manner. They feared that the opposite was actually taking place. An editorial in the *Times and Seasons* in March of 1844, contained the following:

No one can be more opposed to an unhallowed alliance of this kind than ourselves; but while we would deprecate

⁷Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints, Period I*, ed. B. H. Roberts (2nd ed.; 6 vols.; Salt Lake City: Deseret News Press, 1946, ff.), V, 286. This history and a seventh volume covering the Apostolic Interregnum are commonly known as the *Documentary History of the Church* and hereafter will be cited as DHC.

⁸*Times and Seasons*, V, 510. Italics in original.

THEORY AND PRACTICE OF CHURCH AND STATE 37

an alliance having a tendency to deprive the sons of liberty of their rights, we cannot but think that the course taken by many of our politicians is altogether culpable, that the division is extending too far, and that in our jealousy lest a union of this kind should take place, we have thrust out God from all of our political movements, and seem to regard the affairs of the nation as that over which his direction or interposition, never should be sought, and as a thing conducted and directed by human wisdom alone.⁹

As early as 1835 the Church in a general assembly held at Kirtland, Ohio, had adopted by unanimous vote a declaration of belief regarding governments and laws in general which stated: "We do not believe it just to mingle religious influence with civil government, whereby one religious society is fostered and another proscribed in its spiritual privileges, and the individual rights of its members, as citizens, denied."¹⁰ In 1841 a city ordinance was passed in Nauvoo which allowed religious freedom to all faiths. In fact, what the Saints wanted was the same opportunity. But these positions did not seem inconsistent in any way to the Mormons that governments should be guided and directed by principles of righteousness as indicated in the following editorial: "Certainly if any person ought to interfere in political matters it should be those whose minds and judgments are influenced by correct principles—religious as well as political; otherwise those persons professing religion would have to be governed by those who make no professions; be sub-

⁹*Ibid.*, V, 470. Joseph Smith organized a "special council" on March 11, 1844, which was usually called the General Council or the Council of Fifty. DHC, VI, 260, 61. Its immediate purpose was to assist in locating the Saints in the West and determine the policy to pursue in maintaining the individual rights of the Mormons. Ultimately this council was to be the legislature of the Kingdom of God. DHC, VII, 379. Even though its primary responsibility appears to be political, the position of Andrus, *op. cit.*, that there was a separation of church and state during the theocratic period of 1844-49 cannot be supported convincingly. (Discussions with Dr. Andrus following the publication of his book have resulted in a modification of his earlier views on church and state.) A survey of the meetings of the Apostles, the High Council, and the General Council during this period makes it obvious that religious *and* political matters were considered in the sessions of all three councils. Even though the General Council might have non-Church members on it, Parley P. Pratt pointed out in an address in the Valley on October 10, 1847, that the General Council included the Twelve, without which the Council was powerless, it appears. See "Journal of C. C. Rich," MS, on file in the Church Historian's Office for an outline of Pratt's address.

¹⁰*Doctrine and Covenants*, 134:9.

ject to their rule; have the law and word of God trampled under foot. . . ."¹¹

It was difficult to separate spiritual and temporal affairs in the "mind of Mormonism." In fact the theology of Mormonism of the formative period brought a closeness of God to man; it was an earthly philosophy of life as well as metaphysics; the "heavenly city" of Christianity was moved to earth and a utopian society was thought to be within the realm of time as well as eternity. If this was so ideologically, it was emphasized by certain practical developments forced upon the Latter-day Saints.

The death of Joseph Smith did not result in the extinction of Mormonism as the anti-Mormon forces may have expected, and shortly thereafter violence again became common to western Illinois. The Mormons drew within the shell of their city and sought measures of self-defense. Governor Ford charged both sides with subverting the law in the court trials which took place in Hancock county. He concluded:

From henceforth no leading man on either side could be arrested without the aid of an army, as the men on one party could not safely surrender to the other for fear of being murdered. . . . No one would be convicted of any crime in Hancock; and this put an end to the administration of criminal law in that distracted county. Government was at an end there, and the whole community were delivered up to the dominion of a frightful anarchy.¹²

This county-wide anarchy reduced the effective processes of government having jurisdiction over the Saints to the city government of Nauvoo. Before the death of Joseph Smith there were indications of a theocratically controlled city. The city officials were predominantly the leaders of the Church. The situation following the death of the Mormon prophet increased the active participation of the Church in political affairs. Nevertheless the city council of Nauvoo continued to function and carry out its duties in a manner not much different from that in most communities.

¹¹*Times and Seasons*, V, 471.

¹²Thomas Ford, *A History of Illinois from Its Commencement as a State in 1818 to 1847* (Chicago: S. C. Griggs and Company, 1854), p. 369.

THEORY AND PRACTICE OF CHURCH AND STATE 39

A political vacuum was not created until the legislature of Illinois repealed the Nauvoo charters. Two propositions were before legislature: one for absolute repeal, the other for repeal of the supposedly mischievous features. Governor Ford in his special message on Hancock county affairs recommended the latter action. This position had support from others in the government, but the anti-Mormon faction in the legislature was in control. "On the 21st of January, 1845, the repeal act was passed by a vote of 76 to 36; and subsequently it passed the senate by a large majority."¹³ At this point the city of Nauvoo was reduced to the necessity of setting up town governments with a justice of the peace being the most responsible officer under the general law. It would have required twelve towns to cover the entire city.¹⁴ This inadequate situation resulted in a virtual political vacuum, which was promptly filled by the organizations of the Church.

Brigham Young, as the President of the Twelve Apostles, assumed the responsibility of at least maintaining the peace in Nauvoo. The interesting way in which this was handled is illustrated by the following entries in Brigham Young's history:

Monday, March 24, 1845. In company with the Twelve Apostles I attended a meeting at the Concert Hall in the evening. We ordained bishops who were directed to set apart deacons in their wards to attend to all things needful and especially to watch; being without any city organization, we deemed it prudent to organize the priesthood more strictly that the peace and good order hitherto sustained by the city might still be preserved.¹⁵

Monday, April 14, 1845. Elder Richards and I attended the deacon's meeting. The deacons have become very efficient looking after the welfare of the saints; every part of the city is watched with the strictest care, and whatever time of night the streets are traveled at the corner of every block a deacon is found attending to his duty.¹⁶

As the repeal of our City Charter has deprived us of our military organization, the following was issued by the council:—

¹³Th. Gregg, *History of Hancock County* (Chicago: Chas. C. Chapman and Co., 1880), p. 336.

¹⁴DHC, VII, 400, records that a small portion of the city was incorporated as the town of Nauvoo, April 16, 1845.

¹⁵DHC, VII, 388.

¹⁶DHC, VII, 399.

To Charles C. Rich:

President of all the Organized Quorums of the Church of Jesus Christ of Latter-day Saints in Hancock County.

Greeting: You are hereby instructed to hold the same [*i.e.*, the quorums of the priesthood] in readiness for all duties that shall be necessary in all emergencies.

Done at the 'City of Joseph' this 14th day of September, A. D. 1845.

[signed] BRIGHAM YOUNG, President.¹⁷

In October, a great anti-Mormon convention met in Carthage. Nine counties were present, with Hancock county excepted and excluded. The committee concluded that the Mormons must leave the state, and appealed to the surrounding counties to accept the Mormon proposal to remove from the state the next spring. Pressures mounted, however, resulting in an earlier and major exodus from Nauvoo in February, 1846.

In this situation of emergency proportions, the theocratic civil government approached a system of theocratic martial law. On February 17, 1846, Brigham Young counseled the group which was assembling in the territory of Iowa as to order in camp, deportment, and conduct: "We will have no laws we cannot keep, but we will have order in the camp. If any want to live in peace . . . they must toe the mark."¹⁸ This semblance of a military organization was preferred *en marche*, Brigham Young being unanimously elected president over the whole "camp of Israel" on March 27. The camp marched to Council Bluffs, later crossing over to the west side of the Missouri river to make winter settlement on Indian lands. The organization for and the conduct of the great exodus from Winter Quarters, as this last settlement was called, to the Great Basin was accomplished in military fashion.¹⁹

The Saints in their temporary location at Winter Quarters were governed by the ecclesiastical authorities—generally by the Twelve Apostles and the Council of Fifty and locally by the High Council and bishops. Urging from the Indian agents forced the Saints to leave the Omaha Indian lands in the spring of 1848. Those who could not go to the Great Basin were to

¹⁷DHC, VII, 443, 44.

¹⁸DHC, VII, 586.

¹⁹*Doctrine and Covenants*, Section 136.

THEORY AND PRACTICE OF CHURCH AND STATE 41

move to the east side of the river. On Saturday, December 25, 1848, a meeting was held in the Log Tabernacle. "The congregation voted that the High Council on the east side of the river have all municipal power given to them by this people, and that the bishops' courts have authority as civil magistrates among the people, until the laws of Iowa are extended over us."²⁰

The Iowa legislature of 1847 had made provision for the organization of counties out of the Pottawattamie lands, but partisan politics between the Whigs and the Democrats held this up for some time, and even after the county was organized, the High Council acted politically as well as religiously. This practice was typical of other Mormon settlements across Iowa as well. In addition to the legislative function of determining policy, the High Council was administratively responsible. It selected the necessary administrative officials such as the marshals, recorders, and so on. Policy administration was buttressed by a fully developed court system which utilized the different echelons of church organization. The following judicial commission is an interesting example:

Bro. L. T. Coons: You are hereby authorized to choose you two counselors and act in the capacity of Bishop in all civil cases, cases of difference, debts, immoral conduct, etc., among the brethren. Do all things in righteousness and see that the law of God is honored, and the Lord bless you in so doing. Amen.

Done by order of the High Council of the Church of Jesus Christ of Latter-day Saints on the Pottawattomie Lands, this 22 day of January, A. D. 1848.²¹

The bishops' courts during this theocratic period were aided in the execution of their decisions by marshals, duly appointed or elected, who meted out corporal punishment. This administrative task, although indispensable, was entirely foreign to the priestly structure. The Church rule provided for punishment only through excommunication or some degree of disfellowship: coercion is the tool of the state. The Saints were conscious

²⁰DHC, VII, 623.

²¹"Pottawattomie High Council Record," p. 78, as found in Therald N. Jensen, "Mormon Theory of Church and State" (unpublished Ph.D. dissertation, University of Chicago, 1938), p. 46.

of this blending of civil and ecclesiastical offices. The members spoke of their "city corporation," and referred to their high council as a "Municipal High Council."

The following ordinance enacted by the High Council in the "Log Tabernacle," January 1, 1848, points out the merger of church and state convincingly:

Be it ordained by the High Council of the Church of Jesus Christ of Latter-day Saints: Residents upon the Pottawattomie lands. That any person belonging to said church (who) shall steal from the Brethren, he or she, shall pay four fold the amount, or in case they have not the amount of property they shall receive not exceeding thirty-nine lashes and if they shall steal from a person not belonging to the church but living among us they shall make satisfaction to the person from whom they have stolen and then receive not exceeding thirty-nine lashes, or if they shall go to Missouri, Iowa, or any other place where there is jurisdiction of civil laws and there steal and come up here upon their being demanded and satisfaction given to this Council by the person coming and identifying the property and the person they shall be given up to the laws where they have transgressed for trial.²²

Therald Jensen felt the above quotation revealed that the Mormon Church in assuming theocratic jurisdiction was operating in default rather than in defiance of the civil government. As this may be, the need for governmental arrangements journeyed with the Saints to their mecca in the Great Salt Lake Valley. In this semi-isolated situation, were the Saints to realize their political ideal, the Kingdom of God? A theocratic government similar to that of the Iowa settlements was organized, but an overt attempt to establish the Kingdom did not immediately materialize.

When the pioneers arrived in the Valley, all activities were sponsored by the Church.²³ Brigham Young proclaimed the first "land law" of Utah on July 25, and subsequent proclamations "announced there would be no private ownership in the

²²*Ibid.*, p. 49.

²³More detailed accounts of this theocratic period in Utah can be found in Dale Morgan, "The State of Deseret," *Utah Historical Quarterly*, VIII, 67-83; and Andrew Love Neff, *History of Utah: 1847 to 1869*, edited and annotated by Leland Hargrave Creer (Salt Lake City: Deseret News Press, 1940), pp. 107-112.

THEORY AND PRACTICE OF CHURCH AND STATE 43

water streams; that wood and timber would be regarded as community property."²⁴ The site for the temple as well as proposals of a city planning type were presented to the camp which "passed all of the above votes unanimously, as they are recorded."²⁵

In August of 1847, Brigham Young and certain other pioneer leaders prepared to return to Winter Quarters. Before doing so, they organized the Salt Lake Stake of Zion. John Smith was selected to be the president, and other leading men were nominated to the presidency and High Council. The selection of this governing body, which was the repository of political as well as religious authority, was approved by a vote of the Saints in the October conference.²⁶ Administrative officers, when the need dictated their selection, served under the direction of the stake authorities. Political, social, and economic regulatory measures were imposed to promote the welfare of the whole community. Pragmatically, the needs of the community, spiritual or political, were met without conscious concern for the principle of separation of church and state.²⁷

The consciousness of the need of a formal civil code to integrate the members of the community was early indicated in the meetings of the High Council. A law committee was appointed "to draft laws for the government of the people in the valley" in a meeting of October 9, 1847. This committee failed to report because of want of time, and another committee was created December 26, 1847, to "draft such laws as were needed immediately."²⁸ Positive action resulted from the work of this committee and a civil code for the inhabitants of the Valley was theodemocratically begun as indicated by the following:

²⁴A summation of the initial activities of the Saints in the Salt Lake Valley can be read in B. H. Roberts, *A Comprehensive History of the Church of Jesus Christ of Latter-day Saints: Century I.* (6 vols; Salt Lake City: Deseret News Press, 1930), III, 269.

²⁵"Journal History of the Church," July 28, 1847, p. 2. Hereafter cited JH. See also the "Journal of Wilford Woodruff," July 28, 1847.

²⁶JH, October 4, 1847.

²⁷The records of the period indicate, however, that the democratic political process was not extinguished as a result of the blending of church and state as the people participated in elections and popularly approved many of the policies initiated by the High Council. The "voice of the Church" at this point was also the voice of the people politically.

²⁸JH, October 9, 1847, p. 1; December 26, 1847, p. 1.

We the High Council of the Great Salt Lake City, in the absence of an organized jurisdiction of any Territory, for the peace, welfare and good order of our community proceed to enact the following laws, for the government and regulation of the inhabitants of this city and valley for the time being, subject to the approval of the people.²⁹

The ordinances enacted were concerned with (1) vagrants, (2) disorderly or dangerous persons and disturbers of the peace, (3) adultery and fornication, (4) stealing, robbing, housebreaking or maliciously causing the destruction by fire of any property, and (5) drunkenness. Penalties were established commensurate with each offense. Compulsory work, lashes not to exceed thirty-nine on the bare back, fines not to exceed \$1,000, and restoration of stolen property four-fold were the teeth to back up the ordinances.³⁰ These devices of compulsion and force were antithetical to the principles of love, persuasion, and long suffering which characterized the operation of the priesthood. The Church organization was clearly assuming the political role of the state.

Development of needed roads and irrigation canals and the fencing of fields both private and public were accomplished by community action. The resources of the Church, which in this early western period were by and large the labor of the members, were used for public and ecclesiastical purposes without distinction. Roads and bridges to be built by voluntary labor did not materialize as rapidly as desired, which resulted in the problem being handled in a political way as is indicated by this excerpt from a letter of John Smith to Brigham Young:

We . . . had to abandon the idea, and try a direct labor tax on polls and property; the assessment has been made and the estimates will soon be made by the bridge committee and pathmaster. The people feel interested in the bridges and roads, and are satisfied that the labor tax will bear equal; we therefore expect that work will be speedily done.³¹

The judicial structure of the Church was applied to the enforcement of laws and also the settlement of disputes between

²⁹JH, December 27, 1847, p. 4.

³⁰Subsequent ordinances were numbered following number five, but few of them are extant. Morgan, *op. cit.*, VIII (1940), Appendix B, 234-239, contains the available printed and numbered ordinances.

³¹JH, March 6, 1848, pp. 2, 3.

individuals. "The High Council was the supreme authority in the Valley, as was instanced on November 7, 1847, when the High Council decided against John Taylor in a dispute with Peregrine Sessions over ownership of a horse, for Taylor had no recourse except to say that he should 'appeal to the Quorum of the Twelve.'"³² The decisions of the bishops' courts, which were essentially courts of arbitration in this early period, could be appealed to the High Council in Great Salt Lake City. Any decisions of this body warranting appeal had to wait until the Quorum of the Twelve Apostles returned to the Valley.

The governmental activities of the High Council continued following the return of Brigham Young, who had been made President of the Church while at Winter Quarters, and the other general authorities in September, 1848. Now, however, Young and other leading men of the Church met in council with the High Council. This larger "council" may have been the Council of Fifty, but the available sources do not permit definitive conclusions on this point. It is also not clear who sat on this later council, but the records make it quite obvious that Brigham Young dominated it.³³

Cooperation among the Saints was fundamental to survival, but this was not left entirely on a voluntary basis. Regulatory measures, many of which were economic in content, were passed by the Council, such as the one authorizing the regulation of currency and empowering President Young to issue bills. A shortage of food in the Valley prompted the Council to resolve:

That no corn shall be made into whiskey, and that if any man was preparing to distil corn into whiskey or alcohol, the corn should be taken and given to the poor; that the Bishops would ascertain the true situation of the people in relation to bread-stuffs and what amount each family had per head, and report to the next council; also that the licensed butchers who has [sic] refused to sell meat for the paper currency, be

³²Morgan, *op. cit.*, p. 72. High Council records and the Journal History of this period contain other examples of the judicial process of this theocratic era.

³³Archival records continue the use of "Council" following the vote of January 6, 1849, to relieve the High Council of its municipal duties. One should not conclude, however, that the High Council ceased to function politically at this time, as the "Council" references are far from clear as to which council is intended.

required by letter to do so, or give up the butchering business.³⁴

Subsequent council meetings were actively engaged in the legislative process, especially those of March 2 through March 4. Judicial decisions were handed down, including the unique method of collecting fines by offering the fined men for public sale "that they be made to work until they have paid the fines now due from them."³⁵ Naturally administrative functions were not overlooked. One of the major considerations of these meetings could be classified politically as the constituent function. Preparations were made to establish a provisional government. The spontaneous theocratic government had handled the immediate needs of the settlers, but the realization that the Valley eventually would be brought under the jurisdiction of the United States suggested the wisdom of organizing immediately a constitutional government.³⁶

On March 5, 1849, a committee was selected to draft a constitution and report to a constitutional convention to be held in Great Salt Lake City.³⁷ The convention held March 8-10 resulted in the Constitution of the Provisional State of Deseret.³⁸ The organization of Deseret brought an end to the purely theocratic government in Utah country. There is indication, however, that the Council was active as a ruling body as late as December 29, 1849.³⁹ And the solid structure of Church organization supported the skeleton of governmental authority during the existence of Deseret and Church influence continued long after the demise of Deseret.

Brigham Young was the Governor of the State of Deseret and the first Governor of the Territory of Utah after it was created by the Compromise of 1850. Representatives of the state territorial legislatures were by and large the leaders of the Church from the major centers of Mormon settlement in the territory. There is little doubt that the interests of Church

³⁴JH, February 3, 1849.

³⁵Morgan, *op. cit.*, p. 70.

³⁶Entries in the JH of the dates mentioned dictate this conclusion.

³⁷J. D. Lee, *A Mormon Chronicle: The Diaries of John D. Lee, 1848-1876*, ed. Robert Glass Cleland and Juanita Brooks (San Marino: Huntington Library, 1955), I, 90-92, discusses these events, but gives the date of March 4.

³⁸JH, March 5-10, 1849.

³⁹Morgan, *op. cit.*, p. 76.

THEORY AND PRACTICE OF CHURCH AND STATE 47

leaders, supported by the majority of the residents of Utah, were translated into public policy during this period; but not without the cost of a half-century of friction with the federal government.

Local autonomy within the United States was desired by the Latter-day Saints, and many, including Thomas L. Kane, maintained that statehood was a *sine qua non* of peaceful political progress. As early as April 3, 1849, a memorial was drafted asking for a "territorial government of the most liberal construction authorized by our excellent Federal Constitution with the least possible delay, to be known by the name of Deseret. . . ." ⁴⁰ In July of the same year, a memorial was drafted citing the need for a state government. Subsequently a temporary amalgamation with California was considered by the Saints as an indirect route to statehood, but it was defeated by the California legislature. Dr. John M. Bernhisel was an active Mormon lobbyist in Washington for Deseret statehood, but his noble efforts came to naught with the creation of the Territory.

The friction began with the first federally appointed officers for Utah who were not members of the Church. At a special conference of the Church, held early in September, 1851, the federal officials, Mormon and Gentile, were all assigned a place on the stand with President and Governor Young. When Judge Perry C. Brocchus was invited to speak he took the occasion to harangue the people for two hours relative to their disloyalty, and ultimately he discussed the subject of polygamy. He concluded by insulting the ladies by reference to their lack of chastity, expressing a hope that they would "become virtuous." The congregation was exasperated; Brigham Young was righteously indignant and arose and rebuked the judge. He said: "I love the government and the Constitution of the United States, but I do not love the damned rascals who administer the government. I know Zachary Taylor, he is dead and is damned,

⁴⁰"Early Records of Utah," MS (located in Bancroft Library, Berkeley, California), entry for April 30, 1849. This is the first of three volumes, titled and catalogued in Bancroft Library, which comprises the excerpts from the "Manuscript History of Brigham Young" used in Bancroft's *History of Utah*. The other two volumes are entitled "Incidents in Utah History" and "Utah Historical Incidents."

and I cannot help it. I am indignant at such corrupt fellows as Judge Brocchus coming here to lecture us on morality and virtue."⁴¹

A series of letters was exchanged between Young and Brocchus, but the differences could not be reconciled and a complete rupture came when Judges Brocchus and Brandebury and Secretary Harris left their posts, accusing the Governor and the people of Utah of lawlessness and sedition. Daniel Webster, who was then Secretary of State, ordered the officials back to their deserted posts, but they chose to resign. The damage was accomplished, however, as the papers circulated the charges of sedition, and soon the "Mormon issue" found its way into national politics—polygamy was soon to become one of the "twin relics of barbarism." This first phase of friction ended with the debacle known as the "Utah War," when federal troops were sent to Utah to remove Governor Young from his federally appointed position. Governor Alfred Cumming, his successor, made a report to Washington refuting the charges of rebellion, but this proved to be only a short-lived truce in the long Mormon-federal conflict.

Brigham Young recognized the influence he had with the Mormons who settled the Great Basin. A case can be made that he never relinquished his position as the *de facto* Governor of Utah, and theocratic theories and practice continued. In 1867, he historically reviewed the conditions of the Saints and said: "I believe that Governor Cumming came to the conclusion that he was Governor of the Territory as domain; but that Brigham Young was Governor of the people."⁴² This "ghost governorship" of Brigham Young began formally in 1862 with the third major effort of the Mormons to establish the State of Deseret. The territorial legislature on December 19, 1861, passed an act calling for a general election, to be held on January 6, 1862, for sixty-five delegates to a constitutional convention. Even though this act was vetoed by Governor Dawson, the several counties elected delegates to the convention which con-

⁴¹JH, September 8, 1851, p. 4. See also Brigham Young, *et al.*, *Journal of Discourses* (26 vols.; Liverpool: F. D. Richards, *et al.*, 1854-1884), I (June 19, 1853), 186. Hereafter cited JD. Date in parentheses indicates the date when the discourse was delivered.

⁴²JD, XI (February 10, 1867), 324.

THEORY AND PRACTICE OF CHURCH AND STATE 49

vened on January 20. A committee of five, headed by George A. Smith, drafted the constitution which was essentially a reproduction of the constitutions of 1849 and 1856. The constitution was accepted by the convention on January 22, following which Brigham Young was nominated Governor. In the election held March 3, he was unanimously elected.

Brigham Young held great hopes for the new "State of Deseret." He was confident that it would be admitted into the Union. During March and April of 1862, he explained in discourses that the action of establishing a state government was within the scope of the Constitution, and that the people in so doing would not infringe on any laws of the government.^{43 44} In turn Deseret would guarantee to all the enumerated rights of the Constitution of the United States. Transcending this ideal even, Deseret was represented as a sovereign state in embryo. At a session of the "legislature" held in January of 1863, Young said:

This body of men will give laws to the nations of the earth. We meet here in our second Annual Legislature, and I do not care whether you pass any laws this Session or not, but I do not wish you to lose one inch of ground you have gained in your organization, but hold fast to it, for this is the Kingdom of God, and we are the friends of God and you will find that much will grow out of this organization. . . . We are called the State Legislature, but when the time comes, we shall be called the Kingdom of God. Our government is going to pieces, and it will be like water that is spilt upon the ground that cannot be gathered. . . . For the time will come when we will give laws to the nations of the earth. Joseph Smith organized this government before, in Nauvoo, and he said if we do our duty we should prevail over all our enemies. We should get all things ready, and when the time comes, we shall let the water on to the wheel and start the machine in motion.⁴⁵

⁴³It is interesting to note that the disunion forces of the Civil War did not prompt the Mormons to establish their ideal, the Kingdom of God, as a separate political entity. Brigham Young spoke about the imminent destruction of the United States at the beginning of the Civil War, but the Saints looked to the Constitution of the United States as the proper source of their own political authority. Brigham Young's discourses on the Kingdom of God make it quite clear that he felt that it would be a transition of minor consequence from the governmental system under the Constitution to the Kingdom of God.

⁴⁴JD, X (March 9, 1862), 39 ff; (April 8, 1862), 32 ff.

⁴⁵JH, January 19, 1863.

From 1862 until 1870 the Legislature of the State of Deseret met annually. The session usually only lasted for a few days, at which time the members would engage in the formalities of installing Brigham Young as Governor as well as the other officers of the government, which did not as yet govern; the laws of the territorial legislature were re-enacted (both legislatures were made up of the same men); adjournment until the next year then followed.

The "ghost government" of the State of Deseret disappeared following the session of the General Assembly held in 1870. It is far from clear why Brigham Young allowed Deseret to expire. The change from annual to biennial sessions of the territorial legislature and the constitutional convention held in 1872, which had statehood as a prime objective, were undoubtedly contributing causes. The constitutional convention was unique in that both Mormons and non-Mormons participated, and the constitution represented a united reaction against the excesses of federal officers. Unity was lacking, however, on the issue of Deseret; the convention moved away from the name, the traditional constitution, and even the ideal which was connected with this unique organization.

The ideal of the Kingdom of God, however, remained with the Mormon leader. As though disillusioned with the numerous failures to gain statehood and the vexatious conflicts with the federal appointees in Utah, he seemed to turn in his final years more exclusively to religious interests. This change was not a turn to a spiritual, cloistered retreat from the mundane activities; this was not the temperament of Brigham Young. Indeed, it was during this period that his economic teachings incorporated a new element. Discourses as early as 1871 began to probe the possibility of bringing about a greater unity through the institution of the "Order of Enoch," which in its application was commonly called the "United Order." This was essentially a communitarian economic and social program patterned closely after the "Law of Consecration and Stewardship" which had been given to the Saints in Missouri. Total unity, economic and social as well as spiritual, was conceived by Brigham Young as a prerequisite to the realization of the Kingdom of God.

THEORY AND PRACTICE OF CHURCH AND STATE 51

A communal and cooperative spirit had characterized the Church throughout the Brigham Young era. Through it the material as well as the spiritual objectives of the Saints could be realized most effectively. As a result, it became totalitarian in the sense of its all-inclusive interests. Its centralized organization, with the priesthood as its core, lent itself to effective leadership and popular support. Brigham Young's theories and practices in Church government added to the centralization of the organization and his admonitions encouraged the members of the Church to identify themselves totally with the "Church and Kingdom."

Many Church policies resembled state functions. The Church handled many disputes without taking them into the courts of the Territory. The Church was probably the most effective source of control of the natural resources in the early territorial period, and this control continued little diminished throughout the presidency of Brigham Young. Construction of roads, bridges, walls and numerous other projects of a public-works nature were initiated by the Church. Some projects were allocated to private individuals but controlled by the Church in a public-utility franchise fashion; others were planned and constructed from the funds collected by tithing or through donated labor *in lieu* of cash payments. Welfare projects, many of a make-work nature, were fostered by Brigham Young privately or as President of the Church, financed by the tithes of the members.

These functions, however, are not necessarily those of the state, even though they resemble functions which the state frequently undertakes. Consistent with their communal spirit and their unity in all other matters, the Saints approached the problems in the development of the Great Basin cooperatively. The community spirit was effective as suggested by Bancroft:

As a cooperative association, Mormonism has not its equal in the history of the world. In every conceivable relation, position, interest, and idea; in every sentiment of hope and fear, of joy and sorrow—there is mutual assistance and sympathy. It enters into all affairs, whether for time or eternity; there is an absolute unity in religion, government, and society, and to the fullest extent short of communism, mutual assist-

ance in agriculture, commerce, and manufacture.⁴⁶

This totality of Church interests was due in part to the fact that Brigham Young took no cognizance of needs beyond those which the Church could satisfy. But this also placed the Church in mortal competition with all other institutions for the allegiance of man—the state not excepted. Yet the volitional, non-coercive nature of the Church placed it on a different plane from the state. Brigham Young's notions on the "indomitable will of man," the inability of tyranny to control man, salvation as an individual responsibility, and the proposition that God himself is bound by law required a volitional view of the Church. As the head of the Church, he maintained that he was in precisely the same position as God: "He cannot force his children to do this, that or the other against their will—the eternal laws by which He and all others exist in the eternities of the Gods, decree that the consent of the creature must be obtained before the Creator can rule perfectly."⁴⁷

The volitional nature of the Church is best expressed in its disclaimer of power over the minds and bodies of those who do not choose to accept its direction. Brigham Young had autocratic ways about him. He used strong language in directing his people, at times even suggesting violence. But his love for law and order forbade the individual to take violent measures into his own hands; violence was antithetical to the priesthood. "Our religion is founded upon the Priesthood of the Son of God. . . . It . . . is a pure and holy system of government. It is the law that governs and controls all things, and will eventually govern and control the earth and the inhabitants that dwell upon it. . . ."⁴⁸ Disfellowship and excommunication were the strongest measures available to the leaders of the Church—as a church.

Yet it is obvious that the theocratic periods of the Church were characterized by the practical necessity of the Church's assuming the functions of the state. "The history of Utah is the

⁴⁶Hubert Howe Bancroft, *History of Utah* (San Francisco: The History Company, 1890), p. 369.

⁴⁷JD, XV (August 18, 1872), 134.

⁴⁸JD, X (July 31, 1864), 320.

THEORY AND PRACTICE OF CHURCH AND STATE 53

history of the Mormon priesthood in its attempt to subordinate the state to the church, and make the authority of the priesthood superior to that of the United States government."⁴⁹ This, according to Bancroft, is civilization's accusation against Mormonism. Unquestionably the politico-religious attitudes of Brigham Young, such as "there is no true government on earth but the government of God or the holy Priesthood,"⁵⁰ as well as early Mormon history, afforded a basis for the accusation. To the Mormon leader, God was, and should be, the source of law. This position could be summarized best in the succinct statement on government by King Mosiah in the *Book of Mormon*:

Let us appoint judges, to judge this people according to our law; and we will newly arrange the affairs of this people, for we will appoint wise men to be judges, that will judge this people according to the *commandments of God*.

Now it is better that a man should be judged of God than of man, for the judgments of man are not always just.⁵¹

Brigham Young's concept of ideal government brought the omniscience of God into the political processes on earth. He said: "My Governorship and every other ship under my control are aided and derive direct advantages from my position in the Priesthood."⁵² "If I was now sitting in the chair of State at the White House in Washington, everything in my office would be subject to my religion."⁵³ He explained that this would result in justice and mercy to all as a man holding the priesthood would be "qualified to wisely and righteously administer in any civil office, and in this manner the channel of true intelligence would be opened, and light and truth flow freely into every avenue of social life."⁵⁴ He added further: "When we see a religion, and one which is claimed to be the religion of Christ, and it will not govern men in their politics, it is a very poor religion, it is very feeble, very faint in its effects, hardly perceptible in the life of a person."⁵⁵ The gospel should unite the

⁴⁹Bancroft, *op. cit.*, p. 375.

⁵⁰JD, VII (May 22, 1859), 142.

⁵¹Mosiah, 29: 11, 12. Italics supplied.

⁵²JD, II (June 17, 1855), 322, 23.

⁵³JD, IV (August 31, 1856), 41.

⁵⁴JD, II (June 17, 1855), 323.

⁵⁵JD, XIV (June 4, 1871), 159.

people, and the ideal state would be directed along a course of the "greatest good for the greatest number" by the laws of God.

Although his notions might have resembled those of John Cotton and John Winthrop of New England's theocratic days, the demands of Roger Williams of individual freedom were within him also. This seeming ambivalence presented no apparent mental conflict for Brigham Young, as he was not conscious of any conflict between the blending of church and state and individual freedom. Church and state were inseparable in the mind of Brigham Young; they had overlapping jurisdictions. Separation would not only be undesirable but a fiction.⁵⁶

Contrary to the position of many writers on the history of Utah, there was a lack of religious bigotry on the part of Brigham Young. His people were encouraged to learn whatever they could from ministers of other faiths. The Tabernacle was available to itinerant preachers. He said to the people of Ogden in 1871: "Accord to every reputable person who may visit you, and who may wish to occupy the stands of your meeting houses to preach to you, the privilege of doing so, no matter whether he be a Catholic, Presbyterian, Congregationalist, Baptist. . . ."⁵⁷ The tabernacle in St. George was offered to Father Scanlan for Catholic services and "Peter's Mass" was sung in Latin by a Mormon choir.⁵⁸

The Kingdom of God would be a theocratic state, but it would recognize the right of liberty of conscience for all. The despotism which resulted from the theocracies of the Old World, or states where the "two swords" were wielded by one sovereign was antithetical to this utopia. "We would not make everybody bow down to our religion, if we had the power; for this would not be Godlike. . . ."⁵⁹ "I am perfectly willing you should serve the kind of a god you choose, or no god at all; and

⁵⁶Henry P. Van Dusen, *et al.*, *Church and State in the Modern World* (New York: Harper and Brothers, 1937), p. 162, states that the separation of church and state notions rest on the false assumption that "Church and State have wholly independent and mutually exclusive jurisdictions. It implies—wrongly—that religion and politics are separate spheres of interest and activity."

⁵⁷JD, XIV (June 3, 1871), 195.

⁵⁸W. R. Harris, *The Catholic Church in Utah* (Salt Lake City: Intermountain Catholic Press, 1909), pp. 331, 332.

⁵⁹JD, XIV (April 8, 1871), 94.

THEORY AND PRACTICE OF CHURCH AND STATE 55

that you should enjoy all that is for you to enjoy,"⁶⁰ were representative attitudes of Brigham Young. During his second term as Governor of the Territory of Utah, while at the same time president of the Church, he said that the "law of God . . . the government of God, as administered here . . . will sustain all religions, sects, and parties on the earth in their religious rights, just as much as it will sustain the Latter-day Saints in theirs. Not that the diverse creeds are right, but the agency of the believers therein demands protection for them, as well as for us."⁶¹

Inconsistent attitudes toward the role of the church and the state appear in Brigham Young's thought possibly because he was not concerned with definitions. He did not trouble himself with the incompatibility of a church which by his own statements is volitional in nature; and a state which by definition and also by his own attitudes has a monopoly of legalized violence, or sovereignty; and the Kingdom of God, which appears to contain within it the volitional qualities of the church, but the governing powers of the state. Political developments in the Mormon domain resulted not from theory, but pragmatically from need. Practical requirements were accomplished in the most effective and expeditious manner possible. If the Church was best suited to act in a political capacity, then well and good, Brigham Young favored it.

The Kingdom of God, on the other hand, was a utopia to be fully realized in the future. It was considered quite carefully and to a greater extent theoretically. It was to be the most perfect form of government on earth, a pure theocracy. Brigham Young's notions on the Kingdom suggests that it was to be quite different than a church or state alone. It was to be a blend of church and state, but the coercive characteristics of the state were to give way to the nonviolent features of the gospel. And as Paul distinguished between the law and the spirit in his letter to the Galatians, the Kingdom was to be an entirely new society to replace the decadent nation-states.

⁶⁰JD, I (August 1, 1852), 363.

⁶¹JD, III (March 16, 1856), 256.