"I Will Give unto You My Law":  
Section 42 as a Legal Text and the Paradoxes of Divine Law

Nathan Oman

Divine law occupies an uneasy place in the modern world, thanks to a long history. For thinkers in antiquity, divine law was hypothetical. They did not identify it with the actual rules that operated within a particular society. One might sanctify one’s traditions, but neither Solon nor Lycurgus was a Moses delivering a legal code claiming divine authorship. In the Middle Ages, however, Muslims, Jews, and Christians sought to turn divine law into a juridical reality. Indeed, what we today call a “religion” was then referred to as a “law.” Hence, medievals spoke of the law of Christ, the law of the Jews, or the law of the Saracens rather than of Christianity, Judaism, or Islam. The concrete effort to realize divine law created conflicting jurisdictional claims that resulted in clashes between secular and religious authority such as the murder of Thomas Becket, Archbishop of Canterbury, by knights of Henry II of England in 1170.

These clashes had their origin in the disintegration of the primal legal unity represented by the idea of divine law. Early canonists at the outset of the medieval era cast the church as an integrated legal system. Later, royal chanceries set up their own legal systems in imitation of the church, which made possible conflicts such as that between Henry II and his “troublesome priest.” Still later, as power consolidated in national governments, the relationship between divine and secular law gradually reversed. Law ceased to be primarily a matter of scriptural exegesis and increasingly became something like the common law of England: a set of rules promulgated by a secular political authority. In the contemporary world, we arrive at the Weberian ideal of law as the rationalization of the state’s monopoly on legitimate violence. And in such a context, divine law has few places it can take root—other than in the realm of the private, the moral, or the religious.

Section 42 of the Doctrine and Covenants (D&C) represents a Mormon response to the predicament of divine law in modernity. The text, originally presented as “The Laws of the Church of Christ,” is a jurisprudential document, one that purports to come from God. It thus presents itself as divine law. A careful reading of the text, however, shows the way in which the idea of divine law at work in section 42 is defined in part through a dialogue with the secular law. Several historians have argued that early Mormons adopted a “theocratic ethic” in which the prophetic commands of revelation were held superior to any demand of secular law. But whatever the merits of this view as a historical interpretation of the ideology of nineteenth-century Mormonism, the text of section 42 reveals a more ambiguous position. On one hand, the text seems to challenge the sovereignty of the state. At the same time, it both retreats from such challenges and molds itself in dialogue with the secular law’s treatment of the practices it defines. For its part, the idea of a theocratic ethic presents a relatively simple model of the relationship between divine and human law, in which the demands of the revealed law are always held to be superior to and sovereign over the demands of secular law. But this model does not adequately capture the idea of divine law revealed in section 42. Rather, the revelation provides a way of accommodating divine law to the reality of secular dominance. The approach first seen in section 42 was dramatically repeated in Mormonism’s abandonment of polygamy at the end of the nineteenth century.

In this essay, I explore the idea of divine law that emerges from section 42. First, I show how the revelation operates as a legal text. Such an interpretation makes the best sense of its textual history. I then argue that what the text offers to readers is ultimately a paradox, a divine law that ignores competing sovereignties in its assertion of authority while simultaneously sacralizing its own accommodation to modern legal realities. While lacking the
simplicity of a theocratic ethic, this approach allows divine law to continue operating in a world where secular legal regimes claim overwhelming practical dominance. Exegesis of section 42 begins with its textual history. On January 2, 1831, Joseph Smith received a revelation now canonized as section 38. Some months earlier, Mormon missionaries on their way to Missouri to preach to the Lamanites had converted a large group of Campbellites and Baptist primitivists in Kirtland, Ohio. At the time, Joseph Smith was still living in New York. The January revelation commanded that the Saints “should go to the Ohio” (D&C 38:32). It went on to promise, in God’s voice, that “there I will give unto you my law” (D&C 38:32). Accordingly, Joseph relocated his family to Kirtland the next month, and beginning on February 9 began receiving the promised law. What would eventually become section 42 was received in three parts on two separate days. The initial version of what was to become Doctrine and Covenants 42:1–69 was first recorded on February 9, 1831. The first part of this text dealt with various missionary callings (see D&C 42:1–10), while the core of what came to be called “the Law” lies behind what is now D&C 42:11–69. Subsequently, on February 23 Joseph met with a group to consider “how the Elders of the church of Christ are to act upon the points of the Law” and recorded the initial version of what eventually became D&C 42:70–93, which provided a gloss on the previously received text. Further, as will be discussed below, the Law was substantially revised before settling into its current form, but from the beginning it was self-consciously presented as “the law which I [the Lord] shall give unto you” (D&C 42:2)—that is, as a legal text. (When John Whitmer transcribed Joseph’s revelations into an official notebook kept in Kirtland and later in Missouri, he generally prefaced each new entry with the word “Commandment,” written in large letters. However, when he recorded the text of what would become D&C 42:1–72, he wrote in large script “The Laws of the Church of Christ.”) It might be surprising that the text of the revelation was altered.

But legal texts are practical documents. Their purpose is to give guidance in particular contexts by providing rules. The idea that the text changes to reflect new rules and practices is unobjectionable. Indeed, we expect this of legal texts. And the complex textual history of section 42 suggests that it originally functioned in part as a legal text in this way. The earliest manuscript of section 42 no longer exists, but we do have numerous prepublication copies made by individual Latter-day Saints, as well as more official compilations kept by Joseph Smith’s scribes. Additionally, various versions of the texts that eventually became section 42 were published in The Evening and the Morning Star, the 1833 Book of Commandments, and the first edition of the Doctrine and Covenants in 1835. These early versions of section 42 show that the original text was substantially revised prior to its 1835 canonical presentation. The legal character of the text suggests how Latter-day Saints negotiated these changes. According to Orson Pratt, Joseph Smith distinguished between revelations that were published as authorities to the community and revelations that were merely of historical significance—a distinction that suggests a quasi-legal understanding of the revelation’s textuality.

Likewise, the minutes of the Kirtland High Council in 1834, where the decision was made to compile what became the 1835 edition of the Doctrine and Covenants, suggest a similarly ahistorical, legalistic understanding of the text. “The Council then proceeded to appoint a committee to arrange the items of the doctrine of Jesus Christ, for the government of the Church of Latter-Day Saints. . . . These items are to be taken from the Bible, Book of Mormon, and the revelations which have been given to the Church up to this date, or shall be until such arrangements are made.” Notice that the Doctrine and Covenants is compiled “for the government of the Church.” Envisioning something quite distinct from a mere record of past revelations, the council con templated a compilation of scriptures from multiple sources that would then serve as an authoritative guide to current practice.
Consider some passages in what appears today as verses 30–37 of section 42. These verses set forth rules governing the consecration of property to the church and the deeding back to members of individual stewardships. The procedures described in the earliest manuscript copy of the Law are different from those found in the final version. In Joseph Smith’s manuscript notebook, for example, the text describes the procedure for administering any residual property remaining in the hands of the church after stewardships have been doled out to members. It reads, “The Residue shall be kept in my Store house to administer to the poor & needy as shall be appointed by the Elders of the Church & the Bishop.” This version of the text was then included in the 1833 Book of Commandments. In the 1835 edition of the Doctrine and Covenants, however, the decision-making body controlling the residue of property was designated as “the high council of the church, and the bishop and his council,” reflecting the more elaborate ecclesiastical structure that had been created in the intervening years.

Likewise, the earliest version of the text seems to contemplate a single act of consecration upon conversion. In contrast, the 1835 edition introduces a second consecration “if there shall be properties in the hands of the church, or any individuals of it, more than is necessary for their support” (see D&C 43:33). As Grant Underwood points out, all these changes passed without comment at the time, suggesting that early Mormons understood the evolution of the text not as the corruption of a divine original but simply as a juridical updating. Just as the US Code is only accidentally a record of particular legislative enactments, serving primarily and essentially as a compendium of currently valid law, the text of the 1835 Doctrine and Covenants was less a record of a distinct revelatory event than the product of successive “legislative” amendments. All these exegetical details suggest that the Law of section 42 is to be understood as a law in more than one sense.

Of course, law is a famously slippery concept. All the words common in Western thought that could be rendered as “law”—nomos, lex, ius, aequitas, Recht, loi, droit, right, equity, and so forth—have slightly different meanings. Lon Fuller’s broad definition of law as the process of subjecting human action to the government of rules, however, is capacious enough for us to refer to section 42 as law without embarrassment. And we have already seen some clear reasons to believe that the revelation should be regarded as a legal text. Still, we can ask in exactly what sense the Laws of the Church of Christ is law. Understanding a legal text as the product of successive rounds of legislative amendment provides a way of understanding the revision of the Laws of the Church of Christ between 1831 and 1835. For all of that evolution, however, section 42 also aligns itself with a more cosmic vision of divine law.

Legislation was an idea familiar in the America of the 1830s, but there is another way of thinking about law that is profoundly uncomfortable with the idea of legal change. This approach presents a continuum. At one end is the notion of law as an ancient and sanctified (but nonetheless conventional) tradition, as in the Roman mos maiorum. At the other end is the notion of law as a timeless statement of cosmic truth. For example, during the classical period, Muslim theologians argued that the Qur’an—and with it the sharia—was an uncreated emanation from God. Section 42 invokes something of this more eternal notion of law, although where it falls between the mos maiorum and the uncreated Qur’an is unclear. As noted earlier, the Laws of the Church of Christ proper does not begin until verse 11 in the current edition of the Doctrine and Covenants, verses 1–10 being concerned with individual missionary callings. In verses 18–29, which form a kind of preface to the rapidly evolving material on the law of consecration, the Law recapitulates in effect the second half of the Decalogue (the latter six of the Ten Commandments). It thus simultaneously links itself to the ancient order of things going back to the children of Israel and invokes what nineteenth-century Americans— influenced as they were by Protestant thought—saw as a changeless standard of God’s moral truth. By recapitulating the scriptural prohibitions against theft, murder, and
adultery, the revelation was thus laying claim to being something more than a compendium of current policies regarding consecrated properties.

Moderns, of course, identify law with rules promulgated by the state. Max Weber, as already noted, captured the common sense of modernity when he defined the state as “the form of human community that (successfully) lays claim to the monopoly of legitimate physical violence.” Modernity’s common sense couples this view with the positivist position that there is a conceptually sharp distinction between law and morals, mere counsel and threats backed by legitimate violence. Tellingly, Grant Underwood discusses section 42’s recapitulation of part of the Decalogue as “the Church’s moral code” and the “ethical vision of the Ten Commandments.” By invoking concepts—moral and ethical—that modern positivism conceptually separates from the legal, Underwood here imposes on the text a set of categories that the text itself does not embrace. On this point, it is striking that the Law explicitly challenges the state's Weberian monopoly on force, declaring, “thou shalt not kill. he that k[i]lleth shall die” (see D&C 42:19). The way in which section 42 recapitulates the Decalogue underlines its legal and political function. The connection between section 42 and Exodus runs deep. The story of Sinai in Exodus 20, one of the two places in the Bible where the Ten Commandments are given, marks a key moment in the narrative of God’s chosen people. The children of Israel have been slaves in Egypt, living under the yoke of Pharaoh. Having escaped his armies through the miraculous parting of the Red Sea, they find themselves for the first time beyond the political sovereignty of Egypt. And it is at this moment that God delivers to Moses his law. It is the transmission of the law from God to Moses and from Moses to the people that founds them as a political community. Prior to Exodus 20, the children of Israel are slaves or fugitives, the opposite of an autonomous polity; after the promulgation of God’s law at Sinai, they are no longer merely a household—or worse, slaves, adjuncts to the household of Pharaoh—but instead they become a nation. In the language of classical political philosophy, the Decalogue marks the transformation of the people from an oikos to a distinct polis with its own nomos.

All this is strikingly reflected in the historical context of section 42’s original reception. In the January 1831 revelation mentioned at the outset of this essay, the Lord vouchsafed the Saints “a land of promise, a land flowing with milk and honey” (D&C 38:18). The revelation went on to link this promised land with the foundation of a new and sovereign community: “But, verily I say unto you that in time ye shall have no king nor ruler, for I will be your king and watch over you. Wherefore, hear my voice and follow me, and you shall be a free people, and ye shall have no laws but my laws when I come, for I am your lawgiver, and what can stay my hand?” (D&C 38:21–22). The revelation then commands Joseph to “go to the Ohio,” but Kirtland is not the promised land. That is to be located in Jackson County, Missouri. Rather, Ohio is a stopping place where, the Lord promises, “I will give unto you my law” (D&C 38:32). Joseph’s revelations thus explicitly place the coming forth of the Laws of the Church of Christ in the narrative context of the exodus, with Kirtland as a new Mount Sinai, whence issues a new law that founds a new community set to inherit a new promised land. The New Testament, however, complicates this reading of section 42. The synoptic Gospels use the same narrative motif to mark the foundation of the Christian community but in a context that never makes of the Decalogue a replacement of rival earthly authorities. In the Sermon on the Mount, Jesus, acting as a new Moses, delivers to his followers a new law on the mountaintop, and it is this new law that then founds them as a community. Indeed, in the famous hypertheses of the sermon—“Ye have heard it said . . . But I say unto you . . .” (see Matthew 5:21–45)—Jesus recapitulates key portions of the law given to Moses at Sinai. But even as he is presented as the lawgiver, the same Jesus of the synoptic Gospels emphatically declares his willingness to render unto Caesar the things that are Caesar’s (see Matthew 22:21), just as Paul was anxious to make clear that Christians should submit themselves to “the powers that be” (see Romans 13:1). We thus have two
distinct models for the founding of a community via the Decalogue: the unlimited sovereignty of Israel in the Hebrew scriptures, but also the nonstatist claims of New Testament Christianity. Strikingly, the Zion founded by the partial recapitulation of the Decalogue in section 42 takes an ambivalent, middle position between these two poles.

The tendency toward one of these poles can be witnessed before the revelation that would become section 42 was given. The January 1831 revelation mentioned before (now D&C 38) speaks of the law in relationship to political sovereignty—"ye shall have no king nor ruler" and "ye shall have no laws but my laws when I come" (vv. 21, 22)—suggesting the primacy of the Sinai narrative rather than the Sermon on the Mount. This tendency then appears also in section 42. In fact, at least two textual features of the Laws of the Church of Christ point toward the more aggressive position represented by the nation of Israel. First, recall that verses 70–93 in the current version of section 42 were not part of the original law. Rather they were added subsequently to instruct "how the Elders of the church of Christ are to act upon the points of the Law." This is important because these verses disclaim the death penalty announced in the original text of the Laws of the Church of Christ (again: "He that k[i]lleth shall die"). Instead, the later addition commands that criminal malefactors are to be "delivered up and dealt with according to the laws of the land; . . . and it shall be proved according to the laws of the land" (D&C 42:79). But this clarification—a gloss that provides an alternative procedure for dealing with the reality of a functioning secular law—throws into relief the original law's insistence upon the death penalty for murderers. Tellingly, the initial prohibition is not treated as a justification for the secular legal regime; rather it is treated as an alternative to it.

The second aspect of the revelation that takes a more aggressive stance on sovereignty lies in the specific way the original Laws of the Church of Christ recapitulates the Decalogue. According to one tradition, the commandments contained in the first half of the Decalogue—the prohibitions on polytheism, idolatry, and the like—all relate to matters governing humanity's relationship with God. In contrast, the commandments contained in the so-called second tablet—the commands against coveting, theft, murder, adultery, and so on—all relate to relations between people rather than between people and God. This division tracks a number of fault lines that run deep through Western political thought: the first tablet deals with matters of religion, the second with matters of politics; the first tablet deals with sacred matters, the second with profane; the first tablet deals with matters of church, the second with matters of state. This division has even been mapped epistemologically, with the first tablet identifying wrongs known by special revelation, the second identifying wrongs that can be divined by universal natural reason. If one approaches the Laws of the Church of Christ with this traditional understanding of the Decalogue in mind, it is immediately striking that its recapitulation of the Ten Commandments contains no references to the first tablet and names only commandments from the second tablet. The founding law of Zion plants itself firmly on the political, secular, state, and universal side of the Decalogue. This is, again, suggestive of a certain conflict between revealed law and secular law.

There are, however, features of the current text of section 42 that significantly qualify the way in which the Laws of the Church of Christ challenges the sovereignty of the secular law. First, as just noted again, verses 70–93 of the current text were given separately from the original law. They came in response to a very concrete, practical question from the elders assembled in Kirtland. Having been given the law, they wanted to know what to do in concrete practice. Strikingly, this further revelation (received only two weeks after the original) retreats from the more absolute claims made in the original law of February 9. Most dramatically, as already noted, the call for the death penalty is relaxed, with malefactors being given over to the ordinarily constituted legal authorities. Likewise, the implementing verses in this section assume an ecclesiastical jurisdiction independent of the state to try
matters such as adultery but with its remedial options clearly limited to excommunication from the ecclesiastical community.

Further, as discussed earlier, later editorial alterations to the text of the original law—especially in connection with procedures involving the consecrations of properties—put on display a revealed law that is in dialogue with the secular legal system. In particular, two changes in the text minimize the confrontation between the law of consecration and stewardship and the common law rules of property. First, after the text has been edited, there is no longer any attempt by the church to retain a property interest in the stewardships. The earlier regime had assumed that even after property was given as part of a stewardship the bishop would retain the discretion to alter the allotment. Allowing such fractured control over property, however, was anathema to the common law of nineteenth-century America. It smacked of the repudiated doctrine of feudal tenures and seemed inconsistent with the allodial character of American real property. Unsurprisingly, the result of the original law’s organization of affairs was litigation against the church by disaffected members—litigation that generally did not go in the church’s favor. Hence, the text was altered so that property was given “with a covenant and a deed [note the inclusion of the technical, legal term] which cannot be broken” (D&C 42:30). This change in the text marks a retreat from ecclesiastical control over property once it had been given as part of a stewardship. Prior to the change, the church claimed the right to repossess property given as part of a stewardship; after the change, the recipient of such property owned it free and clear of any ecclesiastical claims.

The fully revised version of the law also emphasizes in various places the fact that consecrations to the church were for the care of the poor and benefit of church officers. One of the legal problems with the system of consecration and stewardship was that the deeding of property to the church followed by an immediate deed from the church back to the individual—the procedure generally employed in consecrations—looked like a dummy transaction of the kind the common law has always treated suspiciously. On the other hand, gifts to eleemosynary institutions or for the support of ministers are examples of transactions that the common law has traditionally been enthusiastic about protecting from subsequent legal attack. Hence, the revised text describing the law of consecration and stewardship did so in terms that were more likely to be treated favorably in litigation. This example, combined with those just discussed, suggests that what is now section 42 is as comfortable within an amiable relationship to secular law as it is with a stronger rivalry with secular law. The revelation draws on both the Sinai narrative’s sense of the sovereignty of divine law and the gospel’s willingness to work within the context of other laws held to be sovereign.

What are we to make of this complex document? In a sense, the textual history of section 42 recapitulates the history of the idea of divine law, moving from the idea that divine law is a juridical reality to the idea of a divine law that exists in the spaces left open by secular law. That history is compressed from the fourteen centuries beginning with the disintegration of the Roman Empire to the fourteen days between February 9 and February 23, 1831. The law of February 9 speaks in an imagined space where no competing sovereignty exists, where Zion can be founded in an empty world through a new law delivered by a new Moses. The Saints have no king nor any law but the law of God (see, again, D&C 38:21–22). By February 23, however, the elders require a gloss, instructions on “how [they] . . . are to act upon the points of the Law.” They find themselves living in a world inhabited by a robust secular law, so they need to know how the divine law is to interact with it. The response then and thereafter is a ceding of murder and the protection of property to the law of the land, coupled with the creation of an ecclesiastical structure to deal with moral questions. In effect, the gloss of February 23 transforms Zion from a kingdom into a church and the divine law into a system of morality.
I want to note two things about this process. First, there is a stunning and daring anachronism in the law of February 9. The problematic relationship of divine and secular law had been a matter of dispute since at least the twelfth century, and early nineteenth-century America offered a perfectly workable solution to this problem in the Protestant settlement between church and state. That solution can be found reflected in the church's statement on government, authored by Oliver Cowdery and canonized as section 134. It comfortably adopts the settlement worked out in the late seventeenth and eighteenth centuries in the wake of the wars of religion. It divides the social universe into the realm of "civil officers and magistrates" (D&C 134:3) on the one hand, who are to protect "the free exercise of conscience, the right and control of property, and the protection of life" (D&C 134:2), and religion on the other hand, where "men are amenable to [God], and to him only, for the exercise of [conscience], unless their religious opinions prompt them to infringe upon the rights and liberties of others" (D&C 134:4).

Cowdery's presentation of matters is all very clean and neat and Lockean. The Laws of the Church of Christ, however, resolutely refuses to take the easy way out offered by this settlement. Instead the Lord speaks on February 9 as though the whole medieval and early modern confrontation between divine and secular conceptions of law had never happened.

The second thing worth noting is that accommodation to the competing claims of secular sovereignty, presented in the last part of what is now section 42, is itself presented as a revealed law. For Christian and Jewish thinkers, the accommodation of divine law to the new realities of an ascendant secular law required a massive effort of exegesis and reinterpretation. It is a project with which Islamic jurists continue to grapple. This effort occurs in the commentary that surrounds the sacred text. In contrast, in section 42 the solution of retreat and compromise by divine law in the face of secular reality is not left to theologizing that takes place off the scriptural page. Rather, the accommodation and ambivalence is written directly into the divine law itself, as a revealed word. In other words, while it is tempting to read the uncompromising revelation of February 9 as the real or authentic law and the February 23 text as a retreat, it must be recognized that the February 23 text is presented as a revelation speaking in the first-person voice of God. When the deconstructed revelation that emerges from the textual history is reconstructed into the canonized text of section 42, we are left with a doubleminded, almost agonistic text. Again, the history from late antiquity to the nineteenth century and from February 9 to February 23 is united in a single authoritative revelation. Both the initial indifference to competing sovereignties and the retreat in the face of the demands of secular jurisdictions are presented as part of one and the same divine law. This same paradoxical approach to divine law was manifest again— and most dramatically—in the struggle over polygamy. In addition to whatever else it was, the passage of Mormonism from monogamy to polygamy and back to monogamy was a legal event. While the exact origins of plural marriage within Mormonism are controversial, as a textual and scriptural matter it makes its appearance in what has become section 132 of the Doctrine and Covenants, a revelation first recorded on July 12, 1843. There the command to take plural wives is presented as a revealed "law . . . instituted from before the foundation of the world" (D&C 132:5). Here again we see divine law in its most uncompromising and cosmic sense. But this law instituted before the foundation of the world soon found itself in conflict with the laws of the United States. In 1862, Congress passed the Morrill Anti-Bigamy Act, and after the Supreme Court blessed its constitutionality in 1879, the federal government loosed a hail of prosecutions and increasingly punitive legislation against the Latter-day Saints. Over the course of the 1880s, hundreds of Latter-day Saints were incarcerated, Mormon polygamists and all Mormon women were formally disenfranchised (in Idaho Territory all Mormons were deprived of the vote), and the United States began proceedings to confiscate Mormon temples and other church property.

Faced with institutional annihilation for the church and the permanent political subjugation of all Latter-day Saints, Wilford Woodruff recorded in his diary on September 25, 1890:
"I have arrived at the point in the History of my life as the President of the Church of Jesus Christ of Latter Day Saints where I am under the necessity of acting for the Temporal Salvation of the Church. The United State[s] Government has taken a Stand & passed Laws to destroy the Latter day Saints upon the Subject of polygamy or Patriarchal order of Marriage. After Praying to the Lord & feeling inspired by his spirit I have issued the [Manifesto announcing the end of plural marriages] which is sustained by My Councillors and the 12 Apostles."\textsuperscript{37}

He was later to defend his actions in a sermon delivered in Logan, Utah, where he insisted, “I should have let all the temples go out of our hands; I should have gone to prison myself, and let every other man go there, had not the God of heaven commanded me to do what I did do.”\textsuperscript{38} Here what might appear to be a gesture of accommodation or retreat is again presented as direct revelation. Whatever the complexities of post-Manifesto polygamy, in the end plural marriage’s demise in Mormon practice resulted from a claim to revelation rather than exegesis. The divine law both demanded its practice and suspended it. Section 42 does not offer an entirely satisfying vision of divine law.

The persistence of Mormon fundamentalism attests to the unwillingness of many to accept a divine law that claims both ultimate legitimacy and God’s sanction for retreat in the face of secular opposition. The paradox lies in the fact that both the divine law instituted before the foundations of the world and the pragmatic accommodation to the “powers that be” claim divinity. The self-immolation of martyrdom in loyalty to an original revelation seems more authentic than a revealed law that in the end is willing to retreat—hence the persistence of polygamy in remote corners of the Intermountain West. The paradoxical vision of divine law presented in section 42 and dramatically enacted in the rise and fall of Mormon polygamy, however, has two major virtues. The first is the simple integrity of survival.\textsuperscript{39} Collective martyrdom is ultimately an act of disloyalty to the community, to its continued life and existence. Section 42 provides a vision of divine law that need not end every conflict with secular authority in religious war and—given the overwhelming coercive capacity of the secular state—in defeat for the believers. The second virtue of section 42 is the unwillingness of divine law to protect itself by simply underwriting the legitimacy of secular power. By writing retreat into the fabric of divine law itself, section 42 leaves perpetually open the possibility of conflict and critique. Thus the sanctification of survival need not necessarily imply the sanctification of quietism.

Seeing section 42 as a legal text allows us to do two things. First, it gives us a model for understanding its layered textual history. Seeing scripture as law rather than the record of a sacred, revelatory event offers a reconciliation of the text’s claim to authority and the way in which the authoritative text has manifestly been altered over the course of its life. Second, and more important, it provides us with a way of thinking about divine law within Mormonism. Section 42 does not present the theocratic ethic posited by some Mormon historians. Any claim to absolute ecclesiastical sovereignty is negated by the negotiation with secular law revealed in the history of the text and the shift between the February 9 portion of the text and the February 23 portion of the text, as well as the 1835 alterations to the law of consecration in order to take into account secular, legal developments. At the same time, section 42 is structured so as to challenge and reject the neat dichotomies between church and state, secular and sacred, public and private that run through modern political thought, and, one might add, the far more conventional section 134. What we are left with is a divine law that both makes claims to sovereignty and sacralizes the compromise of those claims in the face of modern legal realities. The paradox of such a divine law is precisely what allows it to both survive and claim authority for Latter-day Saints in a modern world dominated by a secular law with overwhelming coercive force.\textsuperscript{40}


3. D. Michael Quinn is the author of this interpretation, which has been followed by several other scholars. See Quinn, *The Mormon Hierarchy: Origins of Power* (Salt Lake City: Signature Books, 1994); see also Gary James Bergera, *Conflict in the Quorum: Orson Pratt, Brigham Young, Joseph Smith* (Salt Lake City: Signature Books, 2002).

4. This is not a challenge per se to the interpretation that Quinn and Bergera offer of a particular period in Mormon history. I believe that at times their claims are overstated, but this is a distinct issue from the exegesis of section 42, which is my sole concern in this essay.

5. For an account of Joseph Smith’s move to Kirtland and the circumstances in which what became section 42 was given, see Richard Lyman Bushman, *Joseph Smith, Rough Stone Rolling* (New York: Alfred A. Knopf, 2005), 122–26, 144–55.


7. See Underwood, “‘Laws of the Church of Christ’” 111–12.


12. Orson Pratt wrote, "Joseph, the Prophet, in selecting the revelations from the Manuscripts, and arranging them for publication, did not arrange them according to the order of the date in which they were given, neither did he think it necessary to publish them all in the Book of Doctrine and Covenants, but left them to be published more fully in his History. Hence, paragraphs taken from the revelations of a later date, are, in a few instances,
incorporated with those of an earlier date. Indeed, at the time of compilation, the Prophet was inspired in several instances to write additional sentences and paragraphs to the earlier revelations." *Millennial Star* 17 (25 April 1857): 260.


14. It is interesting to compare the structure contemplated by the Kirtland High Council’s resolution with the earliest governing document for the church, the “Articles of the Church of Christ,” written in 1829. The Articles were drawn up by Oliver Cowdery in 1829 and were almost immediately replaced by what became section 20 of the Doctrine and Covenants. The Articles are written in the first person by the voice of the Lord, but the substance consists largely of verbatim quotations from the ecclesiological passages in the Book of Mormon, particularly in Moroni, strongly suggesting that Oliver Cowdery simply compiled scriptural passages to create a governing document for the then-contemplated church. See generally Scott H. Faulring, “An Examination of the 1829 ‘Articles of the Church of Christ’ in Relation to Section 20 of the Doctrine and Covenants,” *BYU Studies* 43/4 (2004): 57–91.


23. Ancient Roman jurists thought of law in terms of the *mos maiorum*, the ancient traditions of the city dating back to the Laws of the Twelve Tables. On this view, legislation was seen as suspect innovation at best. At worse, it was—literally, given the religious significance of the *mos maiorum*—a form of sacrilege. See Hans Wolff, *Roman Law: An Historical Introduction* (Norman: University of Oklahoma Press, 1978), 63. Of course, the Romans maintained a distinction between secular law, *ius*, and sacral law, *fas*, but this did not mean that *ius* was bereft of religious significance, just that it didn't necessarily govern cultic practices, which were left to priests and augers.

24. According to these theologians the Qur’an “endures forever with and through the divine Ipseity and is indivisible from it, with neither beginning nor end in eternity.” Henry Corbin, *History of Islamic Philosophy*, trans.
25. This idea was just beginning to receive a forcefully philosophical articulation at the time Joseph Smith began publishing his revelations. See John Austin, *The Province of Jurisprudence Determined* and *The Uses of the Study of Jurisprudence* (Indianapolis: Hackett, 1998).


27. Underwood, "'Laws of the Church of Christ:'" 117.


29. I am indebted to Joseph Spencer for pointing out to me the way in which section 38 reinforces the nesting of the Laws of the Church of Christ in the Sinai narrative in Exodus.


31. See, e.g., John Calvin, *Institutes of the Christian Religion*, ed. John T. McNeill, trans. Ford Lewis Battles (Philadelphia: Westminster John Knox Press, 1960), 376–77. "God has so divided his law into two parts, which contain the whole of righteousness, as to assigning the first part to those duties of religion which particularly concern the worship of his majesty; the second to the duties of law that have to do with men."


34. Dummy sales, for example, are a classic way of secreting property from creditors. Likewise, immediate sale and deedback transactions were frequently used as a device for creating security arrangements that were otherwise deemed fraudulent by the early common law.


40. I would like to thank James Faulconer, Russell Arben Fox, Benjamin Huff, and Taylor Petrey for their comments and criticisms on an earlier draft of this essay. All errors, of course, remain mine.