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Mormonism and Constitutional Conflict: The Legal Evolution of an American Religion

ABSTRACT: *This article examines the two-century relationship between The Church of Jesus Christ of Latter-day Saints and the American legal system, focusing on their reciprocal influence. Drawing on court decisions, congressional legislation, and historiographical works on Mormon and constitutional history, it traces three eras of Church-state interaction: the existential conflicts in Missouri and Illinois; the federal "crusade" against polygamy in the Utah Territory; and the Church's emergence as a sophisticated modern legal actor. The author argues that American law was the primary force shaping the Church's institutional evolution, while the Church simultaneously forced the nation to redefine the boundaries of religious liberty.*

KEYWORDS: *modern history; legal history; United States of America (USA); Utah Territory; Mormonism; Joseph Smith; Brigham Young; religious freedom; polygamy; church and state*

Introduction

From its inception in the spring of 1820, The Church of Jesus Christ of Latter-day Saints[1] posed a unique challenge to the American order. When Joseph Smith (1805–1844) claimed to have been called by God to restore the original gospel of Jesus Christ, he introduced a belief system that not only contradicted prevailing Protestant theology but also established a communal structure that clashed with American cultural norms.[2] What began as localized friction in upstate New York quickly escalated into existential legal conflict as the Church grew in numbers and political influence. Tension exploded in 1838 when Missouri issued an executive order to expel the Church, marking the beginning of a forced migration that would eventually reshape the American West. Over the next century, the Church's struggle for survival moved from the battlefield to the courtroom to Congress, evolving from nineteenth-century fights over polygamy and territorial sovereignty to modern disputes regarding civil rights, social issues, and corporate transparency. This article does not aim to provide an exhaustive catalog of the Church's legal battles. Rather, it is a study in reciprocal influence, focusing on those pivotal episodes of acute, dynamic change in which the Church—in order to survive—modified its practices and governance in response to legal outcomes,[3] while the

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[1] The Church of Jesus Christ of Latter-day Saints affirms the divine origin of its name and encourages its use wherever possible. See Russell M. Nelson, "The Correct Name of the Church," address given at the 188th Semiannual General Conference of The Church of Jesus Christ of Latter-day Saints, October 7, 2018, online. Other terms, such as "Mormon," "Latter-day Saint," and "LDS," remain widely used both within and outside the community. Nineteenth-century members of the Church are often referred to as "Saints." This article follows common practice by using these terms interchangeably for stylistic variance or as context permits.

[2] For the Church's official canonical account of this divine manifestation, known as the "First Vision," as well as the early foundational history of the Church, see "Joseph Smith—History," in *The Pearl of Great Price* (The Church of Jesus Christ of Latter-day Saints, 2026), online.

[3] Although the Church believes it is led by a modern-day prophet, its major developments align with societal and legal pressures, which is a premise of this article. This notwithstanding, the Church asserts that prophetic revelation ultimately dictates its course. Former Church President Russell M. Nelson (1924–2025) addresses this interplay by stating that "good inspiration is based upon good information," thereby underscoring the Church's

American legal system was compelled to define the constitutional boundaries between protected religious belief and regulated conduct.

This article examines three distinct eras of Church–state interaction. First, it explores the existential conflicts of the 1830s and 1840s in Missouri and Illinois, where the absence of an adequate legal infrastructure led to violence, expulsion, and a radical shift in the Church's initial trajectory. Next, it turns to the transitional period of the Utah Territory and early statehood, where the federal "crusade" against polygamy served as both a crucible for Church reform and the birthplace of free exercise jurisprudence in America. Finally, it analyzes the contemporary era, in which the Church has emerged as a sophisticated legal actor, both navigating and influencing complex questions of civil rights, employment law, and financial transparency. This article argues that legal conflict served as the primary external force that shaped the Church's institutional evolution, while the Church's defiant resistance simultaneously compelled the nation to define and redefine the constitutional boundaries of religious liberty—a reciprocal influence that transformed both institutions.

1. Early Conflict in Missouri and Illinois (1831–1845)

The Church's foundation coincided with the Second Great Awakening, a period of intense Protestant religious revivalism in the early nineteenth-century United States that shaped both the environment in which it emerged and the fierce opposition it faced. The intense religious revivalism of the time, coupled with the implication that a "restored" Christian gospel would render other movements inadequate, created a fertile ground for conflict. The notion of doctrinal exclusivity, combined with the Church's strong communal identity, set the Saints apart in every community in which they attempted to establish themselves. In July of 1831, Joseph Smith claimed to have received a revelation that instructed members of the Church to gather in Independence, Missouri, which he identified as the divinely appointed location to establish their Zion.[4] However, the practical application of this theology was far from benign. As the Church began to secure its theocratic stronghold, the political and economic threat posed by its growing numbers quickly became evident to the surrounding communities. Though perhaps inadvertently, the Church was a notoriously difficult neighbor. Church members practiced an insular economic exclusivity that drained resources from surrounding communities and voted as a monolithic bloc, thereby dramatically influencing state and local politics. To the existing settlers on the frontier, this was not merely a religious difference; it appeared as a hostile takeover of local democracy and commerce.[5]

Tensions came to a head the day of state and local elections in Gallatin, Missouri, on August 6, 1838, when local candidate William P. Peniston (c. 1811–1850), fearing that the growing Mormon population would cost him the election, delivered a speech inciting a mob to physically block Church members from the polls. When a group attempted to vote anyway,

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belief that divine will does not operate in isolation but within the temporal framework of its existence. Russell M. Nelson, "Revelation for the Church, Revelation for Our Lives," *Ensign*, May 2018, 95, online.

[4] *Doctrine and Covenants*, 57:1–3 (revelation received July 20, 1831, at [Zion] Independence, Missouri), online.

[5] Richard Lyman Bushman, *Joseph Smith: Rough Stone Rolling* (Knopf, 2005), 222–223.

a violent melee broke out, injuring several men on both sides.[6] This skirmish marked the first instance of open violence in the "1838 Mormon War." Tensions escalated on October 28 of the same year at Crooked River, Missouri, where a Mormon rescue party engaged a state militia unit to free three of their own they felt were being unjustly detained. The conflict resulted in fatalities on both sides, including the death of David W. Patten (1799–1838), one of the original members of the Church's Quorum of the Twelve Apostles (the Church's second-highest governing body).[7] Because the Mormons had attacked sanctioned state troops, Missouri Governor Lilburn W. Boggs (1796–1860) cited the incident as proof of open rebellion, instantly issuing an "Extermination Order" which declared that "the Mormons must be treated as enemies and must be exterminated or driven from the State."[8] The legal consequences were immediate and devastating. Three days later, a rogue militia attacked a Mormon settlement at Shoal Creek, killing 17 men and boys.[9] Boggs's executive order was not just a clear act of state-sponsored persecution; it legally obliterated the Church's theological goal of a Missouri Zion, thereby uprooting its entire population and forcing a migration that the earlier revelation had not predicted.

Following the violent expulsion from Missouri during the winter of 1838–1839, the Saints regrouped across the Mississippi River in Illinois, hoping to find lasting sanctuary. Initially, the reception was warm, with the Illinois legislature granting the Saints a charter to establish the city of Nauvoo in December of 1840. This charter was remarkably liberal and conferred unprecedented autonomy, authorizing a standing militia along with broad judicial powers that Church leadership viewed as a necessary bulwark against possible future persecution.[10] However, the legal conflicts in Missouri followed them across the river. When Missouri officials repeatedly attempted to have Smith extradited to face trial for alleged treason stemming from the 1838 conflict, the Nauvoo municipal court utilized the charter's habeas corpus provision (a legal writ requiring that a detained person be brought before a court to determine the lawfulness of their detention) to intervene and block his removal.[11] While the Saints justified this as a defense against a corrupt foreign legal system in Missouri, the surrounding communities in Illinois viewed it as an abuse of power.

The municipal court system of Nauvoo continued to defy standard legal procedure to protect and insulate the Church. And the state-authorized militia, which adopted the name "The Nauvoo Legion," began to appear to outsiders as more of a private religious army. The perception that Nauvoo was becoming a rogue state within a state soon ignited local

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[6] See Reed C. Durham Jr., "The Election Day Battle at Gallatin," *BYU Studies Quarterly* 13, no. 1 (1973): 36–61.

[7] See Alexander L. Baugh, "A Call to Arms: The 1838 Mormon Defense of Northern Missouri." (Ph.D. diss., Brigham Young University, 1996). For the death of David W. Patten, see Baugh, "Call to Arms," 236.

[8] Lilburn W. Boggs, "Executive Order 44," October 27, 1838, Missouri State Archives, Jefferson City, Missouri, online.

[9] Alexander L. Baugh, "The Haun's Mill Massacre and the Extermination Order of Missouri Governor Lilburn W. Boggs," *Mormon Historical Studies* 10, no. 1 (Spring 2009): 21.

[10] "An Act to Incorporate the City of Nauvoo" (December 16, 1840), *Times and Seasons*, January 15, 1841, 281–286, online.

[11] Jeffrey N. Walker, "Habeas Corpus in Early Nineteenth-Century Mormonism: Joseph Smith's Legal Bulwark for Personal Freedom," *BYU Studies Quarterly* 52, no. 1 (2013): 23–72.

hostilities. These tensions reached a breaking point in June of 1844, when a group of disaffected former Church members published the first (and only) issue of the *Nauvoo Expositor*, a newspaper critical of Joseph Smith and the Church. In a move that proved fatal, Smith and the city council declared the publication a public nuisance and ordered the physical destruction of its printing press.[12] This act was seen as far more than a municipal overstep; it was interpreted as a direct assault on the constitutional freedom of the press. The resulting outrage across the state led to Smith's arrest and imprisonment at Carthage, Illinois. On June 27, 1844, a mob stormed the facility and assassinated both Joseph and his brother Hyrum (1800–1844).[13] Illinois officials, responding to the widespread belief that Nauvoo had become a lawless enclave operating outside government control, moved to strip the city of its protections. Accusing the municipal government of twisting its charter to usurp state authority, the legislature voted to revoke the Nauvoo Charter entirely in January of 1845.[14] This legislative severance ended the Church's experiment with legal sovereignty in Illinois, compelling Smith's successor, Brigham Young (1801–1877), to organize an exodus westward.

This sequence of displacements reveals that the Church's eventual settlement in the American West was less a product of theological destiny and more the result of dramatic entanglements with the established legal and political norms of the communities in which it sought to establish itself. Had the democratic institutions of Missouri or Illinois functioned to protect (or at least better tolerate) minority rights against majoritarian opposition and violence, the Church arguably might have remained a Midwestern phenomenon. Ironically, today, the Church remains the least established in the very regions of its birthplace in the Midwest and Northeast. The expulsion from the (then) United States proper forced the Saints into the relative isolation of the American West, a move that forged a distinct socio-geographic people and fundamentally altered the continent's demographic map.[15] Consequently, the Church's modern presence throughout the Intermountain West stands as a monument to the influence that nineteenth-century legal systems had on the Church. This forced isolation, however, would not grant them immunity. By moving to a federal territory, the Church effectively traded the erratic persecution of state mobs for the systematic, constitutional scrutiny of the federal government.

2. Theocracy in the West: Religious Freedom and Early Statehood (1846–1907)

Under Brigham Young's leadership, the Church endured a strenuous migration west, seeking not just isolation but sovereign independence. Upon arrival in the Salt Lake Valley, Young immediately organized the "State of Deseret," a proposed independent state encompassing a vast swath of the American West, and petitioned Congress for its admission to the Union.[16]

[12] Bushman, *Joseph Smith*, 529–532

[13] Bushman, *Joseph Smith*, 535.

[14] Bushman, *Joseph Smith*, 547.

[15] For the Church's impact in the West, see Leonard J. Arrington, *Great Basin Kingdom: An Economic History of the Latter-day Saints, 1830–1900* (Harvard University Press, 1958).

[16] For Brigham Young's early aspirations to create and govern the State of Deseret, as well as the federal government's response, see Leonard J. Arrington and Davis Bitton, *The Mormon Experience: A History of the Latter-day Saints* (Knopf, 1979), 161–184.

Congress rejected this bid for statehood and instead established the smaller Utah Territory in 1850. To placate the growing Mormon population, the federal government appointed Brigham Young as the first territorial governor. While intended to integrate the Mormons into the federal system, this move ironically strengthened their separatism. Young treated his federal appointment as a mere formality, governing instead through a *de facto* theocracy that mirrored Joseph Smith's ambitions in Nauvoo but on a grander, territorial scale.

While officially serving as a federal officer, Young maintained the State of Deseret as a shadow government, frequently convening its legislature to dictate policy before the official Territorial Assembly would meet to rubber-stamp the decisions.[17] This created an indistinguishable blend of church and state where ecclesiastical loyalty superseded constitutional allegiance. When non-Mormon federal judges and inspectors arrived to establish national authority, they found themselves powerless against this ecclesiastical machine. These officials sent frantic reports back to Washington, describing a territory devoid of republican principles, where the courts were weaponized to protect Church leaders and the governor openly preached defiance of the very government he was sworn to represent.[18] Young's actions forced a collision course with the federal government that would dominate Utah's history for the next fifty years. Such open defiance inevitably invited a federal response. In 1857, U.S. President James Buchanan (in office 1857–1861) declared that the territory was in a state of rebellion and dispatched a massive expedition of 2,500 troops to forcibly unseat Brigham Young and "restore the supremacy of the Constitution and laws."[19] The Saints, viewing this army not as a legal enforcement but as the harbinger of a Missouri-style extermination, mobilized for war. While the resulting confrontation ended in a negotiated settlement rather than open battle, its political consequences were profound. Young was deposed as governor and replaced by a federal appointee, Alfred Cumming (1802–1873), a former Georgia politician appointed by President Buchanan as Utah's new territorial governor, while a permanent military garrison was established near Salt Lake City.[20] This occupation signaled the definitive end of the Church's attempt to escape American jurisdiction or create a sovereign state of its own. The Saints realized that even in the isolation of the wilderness, they could not outrun the reach of federal law.

While the conflict in Utah initially centered on questions of political sovereignty and theocratic governance, this was soon eclipsed by a moral outrage regarding the Church's growing practice of polygamy. Joseph Smith had quietly introduced the doctrine of plural marriage in the early 1840s. The practice rested on the belief that God had restored the ancient practice of patriarchal marriage, as seen in the lives of biblical figures such as

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[17] Arrington and Bitton, *Mormon Experience*, 163.

[18] Arrington and Bitton, *Mormon Experience*, 163.

[19] James Buchanan, "First Annual Message to Congress," December 8, 1857, in *A Compilation of the Messages and Papers of the Presidents, 1789–1897*, ed. James D. Richardson (Government Printing Office, 1897), 5:454.

[20] LeRoy R. Hafen and Ann W. Hafen, *The Utah Expedition, 1857–1858: A Documentary Account of the United States Military Movement under Colonel Albert Sidney Johnston and The Resistance by Brigham Young and the Mormon Nauvoo Legion* (Arthur H. Clark, 1958), 264.

Abraham and Jacob.[21] As Smith's successor, Brigham Young emphasized that the principle was revealed through divine commandment and tied to exaltation, making it not merely permissible but a sacred obligation.[22] For Utah's growing Mormon population, plural marriage became a central marker of religious identity, bound up with their sense of covenant and separation from the surrounding world. To outsiders, however, it represented moral depravity and social disorder. As the nineteenth century progressed, this moral opposition hardened into a specific political agenda. The Republican Party's 1856 platform famously denounced polygamy alongside slavery as one of the "twin relics of barbarism,"[23] effectively pledging the federal government to its eradication. This ideological stance first materialized in the *Morrill Anti-Bigamy Act* of 1862, which outlawed plural marriage in U.S. territories, attempted to disincorporate the Church, and sought to seize Church assets.[24] However, the law proved largely symbolic, as structural deficiencies in its language and the government's burden of the ongoing American Civil War (1861–1865) made it virtually impossible to enforce.[25] This left the Saints to govern themselves for another decade.

The end of the American Civil War allowed the federal government to redirect its attention toward the "Mormon Problem" out West. Recognizing the enforcement gaps in the *Morrill Act*, Congress passed the *Poland Act* of 1874, which dismantled the Church's control over territorial courts and transferred criminal jurisdiction to federal prosecutors.[26] Facing an impending legal siege, Church leaders orchestrated a strategic "test case" to challenge the constitutionality of such anti-bigamy laws on First Amendment grounds—a constitutional argument that was virtually untested in American jurisprudence at the time. They selected George Reynolds (1842–1909), Brigham Young's personal secretary and a practicing polygamist, to stand trial. However, their confidence proved misplaced, as the U.S. Supreme Court unanimously affirmed Reynolds's conviction for bigamy. The decision in *Reynolds v. United States* (1879)[27] became the foundation of free exercise jurisprudence and remained untested for nearly a century. Writing for the court, Chief Justice Morrison R. Waite (1816–1888), the seventh Chief Justice of the United States (1874–1888), reasoned that while the government could not regulate opinion, it was obligated to regulate actions that threatened the social order, even religiously motivated ones.[28] By declaring polygamy a practice incompatible with civilized society, the court stripped the Church of its constitutional shield.

[21] *Doctrine and Covenants*, 132:1 (revelation received July 12, 1843, at Nauvoo, Illinois), online; "Discourse," 16 July 1843, as reported by William Clayton, in *The Joseph Smith Papers, Journals, Volume 3: May 1843–June 1844*, ed. Andrew H. Hedges, Alex D. Smith, and Brent M. Rogers (Church Historian's Press, 2015), 65.

[22] Richard S. Van Wagoner, *Mormon Polygamy: A History* (Signature Books, 1986), 92–98.

[23] "Republican Party Platform of 1856," June 18, 1856, in *National Party Platforms, 1840–1972*, ed. Kirk H. Porter and Donald Bruce Johnson (University of Illinois Press, 1978), 27.

[24] *Morrill Anti-Bigamy Act*, 12 Stat. [U.S. Statutes at Large] 501 (1862).

[25] Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (University of North Carolina Press, 2002), 79–83.

[26] Gordon, *Mormon Question*, 131–135.

[27] *Reynolds v. United States*, 98 U.S. 145 (1879).

[28] *Reynolds v. United States,* 167.

As federal efforts to eradicate the practice continued, Congress recognized the *Morrill Act*'s overly high evidentiary standard for proving the occurrence of a wedding ceremony, which, in the Church, was an ordinance often performed in private, sacred settings.[29] The result was the *Edmunds Act* of 1882, which criminalized "unlawful cohabitation," a state of living that was much easier to prove than a solemnized wedding ceremony.[30] This legislation also disenfranchised convicted polygamists, stripping them of the right to vote or hold office. When even these measures failed to break the Church's resolve, Congress followed with the *Edmunds-Tucker Act* of 1887.[31] This legislation escalated the conflict from individual prosecution to a complete and systematic dismantling of the Church on financial, political, and social fronts. Financially, it dissolved the Church as a legal corporation and authorized the federal government to seize its assets. Politically, it sought to diminish the Church's influence by stripping the franchise from Utah women who had held the right to vote since 1870. Finally, it struck at the very heart of the Mormon family structure by delegitimizing children born of plural marriages, thereby legally fracturing the households the Church sought to protect. The Church, now legally defined as a defunct entity, sought a final respite from the Supreme Court, arguing that such aggressive measures were unconstitutional. However, in *The Late Corporation of the Church of Jesus Christ of Latter-day Saints v. United States* (1890), the court upheld the dismantling of the Church's corporate structure as a valid exercise of congressional power.[32] Facing imminent financial ruin and political annihilation, Wilford Woodruff (1807–1898), the fourth president of the Church (1889–1898), recognized that the faith's institutional survival was at stake. In September of 1890, he formally ended the Church's sanctioning of plural marriage by promulgating the new policy in what has since become known as the "Manifesto."[33] While the unsanctioned practice of polygamy continued throughout the Church, President Woodruff's policy concession relieved immediate federal pressure and paved the way for Utah's admission as the 45th state in 1896.[34]

The true fragility of this new détente was exposed a decade later with the election of Reed Smoot (1862–1941), a member of the Church's Quorum of the Twelve Apostles and Republican senator from Utah, to the U.S. Senate. His arrival in Washington triggered a national firestorm, as Protestant ministerial alliances and politicians argued that a high-ranking Mormon official, having sworn to a hierarchy that had historically defied the government, could not offer undivided allegiance to the Constitution.[35] The resulting "Smoot Hearings" (1904–1907) evolved from a standard credential review into an inquisitorial trial of the Church itself, spanning nearly four years and producing over 3,000 pages of testimony. The Senate investigation ruthlessly probed the Church's inner workings, revealing that

[29] Gordon, *Mormon Question*, 80–83.

[30] *Edmunds Act*, 22 Stat. [U.S. Statutes at Large] (1882): 30–32.

[31] *Edmunds-Tucker Act*, 24 Stat. [U.S. Statutes at Large] (1887): 635–641.

[32] *The Late Corporation of the Church of Jesus Christ of Latter-day Saints v. United States*, 136 U.S. 1 (1890).

[33] Wilford Woodruff, "Official Declaration 1" (1890), in *Doctrine and Covenants*, online.

[34] Thomas G. Alexander, *Mormonism in Transition: A History of the Latter-day Saints, 1890–1930* (University of Illinois Press, 1986), 14–15.

[35] U.S. Senate Historical Office, *United States Senate Election, Expulsion and Censure Cases: 1793-1990* (Government Printing Office, 1995), 272–274.

despite the 1890 "Manifesto," key leaders had continued to solemnize plural marriages in secret. This revelation forced Joseph F. Smith (1838–1918), the sixth president of the Church (1901–1918) and nephew of Church founder Joseph Smith, to testify under oath, where he faced a withering cross-examination regarding the supremacy of church doctrine versus civil law.[36] In a decisive move to save the Church's political legitimacy, Smith issued a "Second Manifesto" in April of 1904.[37] Unlike Woodruff's 1890 declaration, which had functioned as a diplomatic concession, this new edict carried strict ecclesiastical penalties, mandating the excommunication of any member who entered into or performed a plural marriage. This purge finally aligned the Church's private conduct with its public professions. Satisfied that the "old order" was truly dead, the Senate voted to seat Smoot in 1907. This validation was the capstone of the Church's early Americanization; it signaled the definitive end of the isolationist theocracy and marked the beginning of a new era in which the Church rose from a separatist kingdom into a patriotic pillar of the American religious mainstream.

This prolonged confrontation left a dramatic dual legacy that fundamentally reshaped both American law and the Church itself, arguably marking the most transformative period in their combined history. For the nation, the Church's defiant legal resistance forced the Supreme Court to define the parameters of religious liberty decades before the civil rights movements of the twentieth century would otherwise have necessitated such a definition. The resulting "belief-action" distinction in *Reynolds*—holding that, while belief is absolute, conduct must remain subject to neutral law—established a framework that would define free exercise jurisprudence for nearly a century. Simultaneously, this conflict acted as a crucible for the Church, effectively ending its isolationist structure. The relentless application of federal power dismantled the nineteenth-century theocracy, transforming the Saints from a renegade, anti-American enclave into a patriotic, mainstream institution that would come to dominate the culture and politics of the American West—a transformation that was not merely a theological pivot but a survival strategy dictated by this reciprocal influence.

3. Adaptation and Compromise in Modern Society

By the late twentieth century, the Church had become more directly involved in a range of social and public policy debates. The growing religious pluralism in America was reflected in a series of robust protections for religious practice in landmark cases such as *Sherbert v. Verner* (1963)[38] and *Wisconsin v. Yoder* (1972).[39] However, the Supreme Court remarkably reversed course with *Employment Division v. Smith* (1990).[40] In that decision, the court ironically relied on *Reynolds*, the very case the Church had once invoked to defend religious liberty, to walk back modern gains and restore the rule that religious free exercise is subject

[36] Joseph F. Smith, "Testimony," in *Proceedings before the Committee on Privileges and Elections of the United States Senate in the Matter of the Protests against the Right of Hon. Reed Smoot, a Senator from the State of Utah, to Hold His Seat*, 59th Congress, 1st session (Government Printing Office, 1906), 1:92–99.

[37] Joseph F. Smith, "Official Statement [Second Manifesto]," April 6, 1904, in *Conference Report* (The Church of Jesus Christ of Latter-day Saints, 1904), 75, online.

[38] *Sherbert v. Verner*, 374 U.S. 398 (1963).

[39] *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

[40] *Employment Division v. Smith*, 494 U.S. 872 (1990).

to neutral, generally applicable law.[41] The *Smith* decision stripped constitutional protections from minority faiths, but unlike the isolationist defiance of the Brigham Young era, the modern Church responded with high-level political collaboration. In 1993, as a founding member of the "Coalition for the Free Exercise of Religion," the Church deployed its complete legal resources to Washington, with Dallin H. Oaks (b. 1932), a jurist and member of the Church's Quorum of the Twelve Apostles (and president of the Church since 2025), testifying before Congress on the necessity of legislative restoration.[42] This pressure campaign resulted in the passage of the *Religious Freedom Restoration Act* (*RFRA*) of 1993, which reinstated stricter standards for government interference.[43] Although a 1997 case, *City of Boerne v. Flores*, [44] defanged the *RFRA*'s intended power, the whole experience made it clear that the modern Church was more interested in collaborating with Congress than in fighting it.

Having secured its constitutional standing and place among religious political actors, the Church in the late twentieth century pivoted from defensive survival to assertive social advocacy. No longer content to merely exist within the American system, the Church began to actively shape it, asserting its influence on moral issues it viewed as critical to the family structure. This new dynamic was first tested during the debate over the *Equal Rights Amendment* (*ERA*). Passed by Congress in 1972, the *ERA* sought to constitutionally prohibit gender discrimination.[45] However, Church leaders, aligned with a growing coalition of conservative religious groups, feared the amendment's broad language would dismantle legal protections for women and undermine traditional family roles. Deploying its membership in a coordinated lobbying effort, the Church played a significant role in stalling the amendment's momentum in key state legislatures.[46] The *ERA* ultimately failed to achieve ratification by its 1982 deadline, which marked a major political victory for the Church's power as a mobilized constituency on the national stage.

This activism intensified in the twenty-first century as the cultural debate shifted toward the definition of marriage. In 2008, the Church threw its institutional weight behind California's *Proposition 8*, a ballot initiative to define marriage strictly as a union between a man and a woman.[47] Church leadership issued letters urging congregations to donate time and resources, resulting in an estimated $20 million in member contributions to the campaign.[48]

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[41] *Employment Division v. Smith*, 879–882.

[42] Dallin H. Oaks, "Statement," in *The Religious Freedom Restoration Act: Hearing before the Committee on the Judiciary, United States Senate, on S. [Senate] 2969*, 102nd Congress, 2nd session (Government Printing Office, 1993), 33–40.

[43] *Religious Freedom Restoration Act of 1993*. Pub. L. [Public Law] No. 103-141, 107 Stat. [U.S. Statutes at Large] 1488 (1993).

[44] *City of Boerne v. Flores*, 521 U.S. 507 (1997).

[45] H.R. [House of Representatives] J. Res. [Joint Resolution] 208, 92nd Congress, 86 Stat. [U.S. Statutes at Large] 1523 (1972).

[46] Neil J. Young, "'The ERA Is a Moral Issue': The Mormon Church, LDS Women, and the Defeat of the Equal Rights Amendment," *American Quarterly* 59, no. 3 (2007): 623–644.

[47] The Church of Jesus Christ of Latter-day Saints, "California and Same-Sex Marriage," *Church Newsroom*, June 30, 2008, online.

[48] Monica Youn, "Proposition 8 and the Mormon Church: A Case Study in Donor Disclosure," *George Washington Law Review* 81, no. 6 (2013): 2126.

While the measure initially passed, the victory proved pyrrhic. The campaign drew intense backlash and legal scrutiny. Following an investigation, California's Fair Political Practices Commission (FPPC) fined the Church $5,538 for failing to report approximately $37,000 in non-monetary contributions, such as staff time and travel.[49] Though the fine was minor, it marked yet another milestone of active participation in the legislative process.

The eventual legalization of same-sex marriage in *Obergefell v. Hodges* (2015)[50] placed the Church on the losing side of a significant civil rights transformation, necessitating a strategic pivot from opposition to accommodation. Recognizing that the law had settled, the Church strove to adapt by balancing its doctrinal commitments with the new legal reality. In 2015, it backed the "Utah Compromise," a state law that extended anti-discrimination protections to LGBTQ individuals while carving out robust exemptions for religious organizations.[51] This model of mutual respect culminated in 2022, when the Church officially supported the federal *Respect for Marriage Act* (*RFMA*).[52] By endorsing legislation that codified same-sex marriage rights in exchange for provisions protecting religious institutions from being compelled to perform them, Church leaders declared this balanced approach "the way forward."[53] Unimaginable during the *Proposition 8* era, less than two decades earlier, this endorsement signaled a maturation in the Church's public policy engagement, prioritizing the preservation of its own religious freedom through the pragmatic accommodation of civil rights.

As the Church expanded its institutional footprint, legal conflicts increasingly moved from the realm of theology to the complexities of corporate governance. An early critical victory in this arena was secured in *Corporation of the Presiding Bishop v. Amos* (1987),[54] which tested the Church's right to maintain a distinct religious identity within its secular operations. The case arose when a building engineer at a Church-owned gymnasium was terminated for failing to maintain his membership in good standing. The employee sued under the *Civil Rights Act* of 1964, claiming religious discrimination. In a ruling that cemented the concept of "corporate religious freedom," the Supreme Court upheld the Church's right to preferentially hire co-religionists, even for non-religious positions within its affiliated entities. This decision was practically vital for the Church's vast network of schools, charities, and businesses, affirming that the ability to enforce spiritual standards for employees is an essential component of ecclesiastical autonomy.

The Church's growth into a massive financial entity in the twenty-first century invited new forms of regulatory scrutiny. In February 2023, the Securities and Exchange Commission (SEC) announced a settlement with the Church and its investment arm, Ensign Peak Advisors, a

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[49] California Fair Political Practices Commission (FPPC), No. 08/735 (2010), online.

[50] *Obergefell v. Hodges*, 576 U.S. 644 (2015).

[51] Von G. Keetch, "Toward Collaboration: A Perspective from The Church of Jesus Christ of Latter-day Saints," in *Religious Freedom, LGBT Rights, and the Prospects for Common Ground*, ed. William N. Eskridge, Jr. and Robin Fretwell Wilson (Cambridge University Press, 2019), 179–182.

[52] *Respect for Marriage Act*, Pub. L. [Public Law] No. 117-228, 136 Stat. [U.S. Statutes at Large] 2305 (2022).

[53] The Church of Jesus Christ of Latter-day Saints, "Church Applauds Passage of Utah Senate Bill 296," *Church Newsroom*, March 12, 2015, online.

[54] *Corporation of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987).

Church-owned entity responsible for managing the institution's financial reserves, regarding the handling of its massive investment portfolio.[55] The SEC found that the Church, driven by a desire to maintain financial privacy, had directed Ensign Peak Advisors to file public reports through a network of shell companies, thereby effectively obscuring the Church's ownership of approximately $32 billion in assets.[56] While neither admitting nor denying wrongdoing, the Church and Ensign Peak Advisors agreed to pay a combined $5 million in civil penalties. This settlement highlighted a modern reality: as a global institution, the Church would be subject to the same rigorous transparency regulations as any secular corporation.

This financial transparency was further tested in the federal courts by disaffected Church members. In 2022, James Huntsman filed a fraud lawsuit against the Church, alleging that his tithing donations (a religious practice in which members contribute ten percent of their income to the Church) had been improperly used to finance the commercial City Creek Center development, contrary to Church assurances.[57] Huntsman sought the return of roughly $5 million. The Church maintained that the project was funded strictly through the earnings on invested reserve funds, not principal tithing donations; a distinction the courts found legally sound. On January 31, 2025, the Ninth Circuit Court of Appeals affirmed the dismissal of the lawsuit, concluding that no reasonable juror could find that the Church had misrepresented its financial practices.[58] Together, these episodes illustrate the modern paradox of the Church's success: its transformation into a financially robust institution protects it from the existential threats of the nineteenth century, but simultaneously exposes it to the secular demands of regulatory compliance and corporate litigation.

This trajectory from the frontier to the boardroom illustrates a profound metamorphosis in the Church's relationship with American law. Where the nineteenth-century Church had sought to supersede the legal system with theocratic sovereignty, the modern Church has learned to master the machinery of the state to secure its interests. This influence has been reciprocally constructive: just as federal mandates forced the Church to abandon polygamy and adopt corporate transparency, the Church's sophisticated advocacy has significantly shaped the contours of modern religious freedom—from the legislative architecture of the *RFRA* to the employment protections of *Amos*. The existential battles for survival have thus been replaced by the regulated friction of a major institutional player. By trading the sword of defiance for the tools of litigation, legislation, and compromise, the Church has achieved what Smith, Young, Woodruff, and others ultimately could not: a secure, permanent, and influential home within the social, cultural, and political fabric of the United States.

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[55] U.S. Securities and Exchange Commission, "In the Matter of Ensign Peak Advisors, Inc., and The Church of Jesus Christ of Latter-day Saints," Administrative Proceeding, File No. 3-21306, Release No. 96951 (February 21, 2023), online.

[56] U.S. Securities and Exchange Commission, "In the Matter of Ensign Peak Advisors, Inc."

[57] *Huntsman v. Corporation of the President of the Church of Jesus Christ of Latter-day Saints*, No. 21-56056 (9th Cir. January 31, 2025).

[58] *Huntsman v. Corporation of the President*, No. 21-56056.

Conclusion

The two-century legal odyssey of The Church of Jesus Christ of Latter-day Saints stands as a testament to the coercive power of American law and the resilient adaptability of the Church. The Church's trajectory was not solely determined by revelation or theology; it was forged, in significant part, in the crucible of constitutional conflict. From the extrajudicial violence of the Missouri frontier to the Supreme Court battles of the nineteenth century and the regulatory settlements of the modern era, the American legal system has acted as the primary external force shaping the Church's institutional character. This relationship, however, has not been one-sided. In its struggle to survive, the Church has repeatedly forced the United States to confront, define, and redefine the boundaries of religious liberty, thereby leaving an indelible mark on the nation's jurisprudential architecture. The reciprocity of this influence is evident in the stark contrast between the Church's origins and its current reality. In the nineteenth century, the Church's attempt to construct a sovereign, isolationist theocracy exposed the fragility of early American federalism and the limits of the First Amendment. The federal government's response with a campaign of legislative and judicial dismantling, culminating in *Reynolds* and the "Manifesto," proved that no religious entity could exist outside the legal framework of the United States, regardless of how underdeveloped that legal framework was. Yet, in crushing the Church's early separatist ambitions, the law inadvertently perfected the Church as an institution. The *Edmunds-Tucker Act* stripped away the radical economic and marital practices that had made the Saints pariahs, forcing them to adopt the structures of American corporate and civic life. The result is a historical irony of the highest order: the legal system designed to destroy the Mormon kingdom out West ultimately facilitated its survival, transforming a radical frontier sect into one of the most financially robust and politically integrated religious organizations in the world.

The Church's journey also elucidates the evolution of American religious freedom itself. Its legal resistance provided the test case—namely, *Reynolds*—that established the "belief-action" doctrine, a standard that guided judicial reasoning for a century until the very precedents used to suppress the Saints were cited in *Employment Division v. Smith* to curtail the rights of all religious practitioners. This doctrinal reversal highlights a profound maturation in the Church's strategy. Having learned that isolation invites persecution while engagement yields protection, the modern Church has pivoted from being a defendant in the courtroom to a drafter in the legislative chamber. Its pivotal role in the passage of the *Religious Freedom Restoration Act* and the *Respect for Marriage Act* demonstrates that the Church has mastered the very secular tools that were once weaponized against it.

Ultimately, the history of the Church and American law is a narrative of mutual accommodation. The Church survives today not because it successfully escaped America, but because it successfully became American. It navigated the transition from a despised minority, protected only by its own militias, to a mainstream institution, protected by effective legal counsel and political compromise. As the Church faces the twenty-first-century challenges of secularization, corporate regulation, and evolving civil rights, it does so within a legal framework it helped construct. The conflict has not ended, but the terms of engagement have fundamentally changed, and the existential wars of the past have been replaced by the procedural engagement of a permanent stakeholder in the American democratic experiment.

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