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Religious Liberty, Zion, and the Mormon Expulsion from Missouri, 1831–1839

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An abstract of
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Abstract

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America has long been praised for its robust tradition of religious toleration and freedom. Although much of this reputation is deserved, historians of American law have often overlooked the many instances of persecution of religious minorities by both private actors and the government itself in the eighteenth and nineteenth centuries. One such overlooked example is the expulsion of Mormons from counties in Missouri and ultimately from the entire state between 1831 and 1839. This thesis gives an historical treatment of the expulsion of the Mormons from Missouri with particular attention given to the causes of the conflict between the Mormon and Missouri citizens in Jackson County, Missouri. A primary contention is that the Mormon concept of Zion – with its tendency to merge politics and theology, and religion and law – caused fear among non-Mormons in Missouri that they would be governed by the Mormon religion if the Mormons were to obtain a political majority. The response by the Missouri citizens to this threat was to drive the Mormons out on the strength of the natural law argument of self-preservation. The Mormons, however, refused to leave their lands in Jackson County, as their lands held spiritual and theological significance for them. The result was a series of violent conflicts that eventually led to the expulsion of the Mormons from the state by the governor in 1838. This narrative exposes the vulnerability of religious minorities in the wake of majorities in Jacksonian America.

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Introduction

In the summer of 1831, the Mormon Prophet Joseph Smith, revealed to his followers that Jackson County, Missouri was to be the locus for the new city of Zion, and that the Saints¹ were to begin to emigrate there immediately. Just over two years later, 1200 Mormons were violently driven from their homes in Jackson County by an organized group of vigilantes. Most of the Saints fled northward to Clay County where they were initially treated with kindness. Yet within a few short years, the Mormons were once again asked to give up their rights as tensions began to mount. The Mormons sold their properties and moved their community to what would become Caldwell County in the fall of 1836. On October 27, 1838, Lilburn Boggs, Governor of the State of Missouri, issued an executive order in response to an armed conflict that had erupted between the Mormon citizens and the Missouri citizens. The order instructed the state militia not only that “The Mormons must be treated as enemies,” but also that “they must be exterminated or driven from the State if necessary.”² Consequently, over 10,000 Mormons were forced to leave their homes in late 1838 and early 1839. Before it was all over, the conflicts would claim dozens of Mormon lives and the lives of at least two Missouri citizens.

The Mormon conflicts in Missouri were not only the most violent conflicts in the history of early Mormonism, but in American religious history more generally. Apart from

¹ I will use the terms “Mormons,” “Missouri Mormons,” and “Saints” interchangeably throughout, as the Mormons tended to refer to themselves as “the Saints” and outsiders tended to refer to them pejoratively as “Mormons.” In referring to the citizens of Missouri, I will use the terms “citizens,” “settlers,” “Missourians,” “non-Mormon Missourians” interchangeably.

² Governor Lilburn Boggs to John B. Clark, October 27, 1838, available at: https://www.sos.mo.gov/cmsimages/archives/resources/findingaids/miscMormRecs/eo/18381027_ExtermOrder.pdf

the unconscionable persecution and treatment of Native Americans and slaves in antebellum America, as Gordon Wood put it, the Mormons were the most “persecuted religion of this period or of any period in American history.”³ One question that emerges from this narrative is how such an unprecedented degree of religious persecution and violence was possible given America’s legal and cultural tradition of religious toleration and freedom. Put another way, if there were both state and federal level religious freedom protections at the time, why were they unable to help guard the Mormons. The answer, I shall contend, has much to do with the collision of an early American system of religious liberty that required emigration to relieve cultural and religious differences with the Mormon belief in a sacred locus called Zion. The result was a dearth of religious liberty in antebellum America for groups like the Mormons, who suffered unchecked persecution and violence.

In the past several years, a growing number of scholars have begun to question the popular notion that America has always been a bastion for religious liberty.⁴ David Sehat, for example, argues in his book, *The Myth of American Religious Freedom*, that freedom of religion was often unavailable to individuals and groups—such as Catholics, Jews, Atheists, Free Thinkers, Mormons, and more—that fell outside of what he calls the “Protestant moral establishment.” One reason for this lack of liberty, he notes, was that the First Amendment religion clauses originally only applied to the federal government, and could not be enforced

³ Gordon S. Wood, “Evangelical America and Early Mormonism,” *New York History* 61(1980): 380.

⁴ David Sehat, *The Myth of American Religious Liberty* (New York: Oxford University Press, 2010) (hereafter “The Myth of American Religious Freedom”); See also Steven K. Green, *The Second Disestablishment: Church and State in Nineteenth-Century America* (New York: Oxford University Press, 2010) (hereafter “The Second Disestablishment”); and John Witte Jr. and Joel A. Nichols, *Religion and the American Constitutional Experiment: Fourth Edition* (New York: Oxford University Press, 2016) (hereafter “Religion and the American Constitutional Experiment”).

against state and local governments, which for much of the nineteenth century had their own quasi-religious establishments. This, of course, changed with the incorporation of the First Amendment religion clauses into the Fourteenth Amendment's Due Process Clause in the mid-twentieth century. But before then, states were largely left to draft their own religious liberty provisions and to enforce those provisions how they saw fit, which frequently led to the persecution of religious minorities who would not or could not ascribe to the establishment's mores.⁵

Legal scholars John Witte and Joel Nichols have similarly argued that, prior to the incorporation of the Fourteenth Amendment, "Many states still dealt discriminately with religious minorities . . . particularly those of high religious temperature and low cultural conformity." "The dominant pattern," they continue, "was that states sought to balance the general freedom of all private religions with the general patronage of a common religious culture, and they increasingly relied on the frontier as a *release valve* for the tensions between this private religious freedom and public religious patronage." Sadly, many minorities "moved—or were moved, sometimes at gunpoint—to establish their own communities on the frontier," they conclude.⁶

In short, recent scholarship suggests that robust religious freedom was usually inaccessible for religious groups that fell outside of the cultural and religious mainstream. But as Witte and Nichols argue, America was large enough that unpopular minorities could avoid violence and hostility by moving to a new location, usually on the frontier. The space on the American frontier, then, allowed not so much for religious freedom, but more of a practical solution to obviate religious violence or extreme persecution—a relatively new

⁵ The Myth of American Religious Freedom, 68–69 (emphasis mine).

⁶ Religion and the American Constitutional Experiment, 107–09.

achievement in the West. The “release valve” theory proffered by Witte and Nichols, however, overlooks the details of the Mormon story in Missouri, in which the frontier could do nothing to stop the violence and thus calls into question the reach of their theory.

The frontier was ineffectual at serving as a release valve for the violence between the Mormons and Missourians primarily due to the Mormon doctrine of Zion. The early Mormons (and many Mormons still today) believed that God, through Joseph Smith, had revealed that the City of Zion was to be located within Jackson County, Missouri.⁷ Zion was the sacred site where Jesus Christ was to return and thus could not be relocated, or as the revelations put it, “moved out of her place.”⁸ And this belief was a core tenet of the new religious movement. Moreover, Zion alone was the place where people could not only seek refuge from the calamities of the coming age, but also receive temporal and spiritual salvation. As Joseph Smith remarked in 1834, “Take away the Book of Mormon, and the revelations, and where is our religion? We have none; for without a Zion, and a place of deliverance, we must fall.”⁹

Thus, unlike with other instances of Mormon gathering such as in New York, Ohio, and Illinois,¹⁰ where the Mormons were willing to sell or abandon their lands and leave when

⁷ See below note 66; see also Lamar C. Berrett, “Independence, Missouri,” *Encyclopedia of Mormonism* (1992), available at: http://com.byu.edu/index.php/Independence_Missouri. Berrett has written that “Latter-day Saints still look forward to a time when the city of Zion, the New Jerusalem, will be built in the area of Independence, Missouri.” Ibid.

⁸ The Doctrine and Covenants of the Church of Jesus Christ of Latter-day Saints (Salt Lake City Utah: The Church of Jesus Christ of Latter-day Saints, 2013), 97:21 (hereafter “Doctrine and Covenants ___”).

⁹ *Times and Seasons*, December 15, 1845.

¹⁰ Richard Lyman Bushman, *Joseph Smith: Rough Stone Rolling: A Cultural Biography of Mormonism’s Founder*, reprint ed. (New York: Vintage Books, 2007), 124–126, 327–28, 340–41. See also (hereafter “Rough Stone Rolling”); see also Dallin H. Oaks and Marvin S. Hill, *Carthage Conspiracy: The Trial of the Accused Assassins of Joseph Smith* (Champaign, IL: University of Illinois Press, 1979), 217–222.

war or violence was imminent, the Mormons attempted to resist expulsion from Missouri through legal, political, and ultimately violent means. The Mormon doctrine of Zion, then, played a large role in the conflict between the Missourian settlers and the Mormons, as it was both the impetus for Mormon emigration to northern Missouri and an important reason why they did not leave peacefully. Simply put, without the doctrine of Zion, there would not have likely been a high level of hostility between the two groups in Missouri – and even if there had been – it would not have likely led to violence and bloodshed.

While many have written about this dark and tragic period in Mormon history, none has adequately focused on this important role that Zion played in the conflicts—particularly the notion that Zion could become an oppressive religious establishment, if the Mormons were to gain a political majority.¹¹ For most scholars, regional differences, abolitionism, and political and economic concerns have been the mainstay of the explanation for the tensions. A more recent article has proposed that the principle of localism – the notion of local autonomy and majoritarian rule – has been overlooked as a cause of the conflict.¹² Still, even

¹¹ Historian Richard Bushman has argued that both the Mormons' growing numbers in the county and their potential to exercise political control were the primary causes of the conflict in Jackson County. See *Rough Stone Rolling*, 222–23. Stephen C. Lesueur argues that “Religious prejudice stimulated much of the opposition to the Mormons, but the Missourians’ antipathy was also sustained by the social, economic, and political threat the Mormons posed to their communities.” Moreover, he argues that Mormon “claims about establishing the Kingdom of God in Jackson County . . . were partly responsible for causing, or at least reinforcing, the suspicions and prejudices against them.” Stephen C. Lesueur, *The 1838 Mormon War in Missouri* (Columbia, MO: University of Missouri Press, 1987), 17–18. For similar interpretations see Marvin S. Hill, *Quest for Refuge: The Mormon Flight from American Pluralism* (Salt Lake City: Signature Books, 1989), 40–41; Leland H. Gentry and Todd M. Compton, *Fire and the Sword: A History of Latter-day Saints in Northern Missouri, 1836–39* (Salt Lake City: Greg Kofford Books, 2011), 10–16; and Edwin Brown Firmage and R. Collin Mangrum, *Zion in the Courts: A Legal History of the Church of Jesus Christ of Latter-day Saints, 1830–1900*, paperback, ed. (Champaign, IL: University of Illinois Press, 2001), 63–64.

¹² See Matthew B. Lund, “A Society of Like-Minded Men: American Localism and the Mormon Expulsion from Jackson County,” *Journal of Mormon History* 40 (summer 2014): 169–200.

for those who have identified the doctrine of Zion as being an important source for Mormon theological ideas and a cause of the Missouri conflicts, there has been little understanding of how the concept of Zion significantly raised the temperature of the conflicts or how, at bottom, the conflicts contained intrinsic issues relating to religious liberty and the separation of church and state.¹³

A consistent concern among the Missourians in Jackson County, Clay County, and in 1838 was that if Mormon emigration continued unabated they soon would be dominated by Mormon sectarian interests, or as one contemporary put it, they did not wish to live under the “laws and administration of ‘Joe Smith.’”¹⁴ Just as the Missouri government could not protect the Mormons from religious persecution, it likely would not have protected the Missourians from a Mormon religious establishment either. This is especially likely given that Missouri had no version of the Establishment Clause in its 1820 constitution and that the principle of separation of church and state was only beginning to gain traction in America at the time.¹⁵ Moreover, the Mormon Zion—which thought of itself as a separate sovereign

¹³ For example, legal scholar Noah Feldman – without making an explicit reference to Zion – has opined that Mormonism encountered immense opposition both because it “was not only a religious community but also aspired to function as a political one” and because it desired “economic insularity.” Although these features were not “unprecedented” in American history, he continues, they still “elicited skepticism, hostility, and perhaps even hatred from American society at large.” The political and economic nature of early Mormonism to which Feldman refers, is premised on the doctrine of Zion. And while Feldman does not address the Mormon conflicts in Missouri in particular, his suspicion that Mormon political and economic ideas alone would have caused problems was indeed the case. See Noah Feldman, “Mormonism in the American Political Domain,” in *The Oxford Handbook of Mormonism*, eds. Terryl L. Givens and Philip L. Barlow (New York: Oxford University Press, 2015), 606–09.

¹⁴ See below, note 266.

¹⁵ While the Missouri Constitution of 1820 had no version of the Establishment Clause, it did, however, prohibit clergy from any denomination or faith from serving in public office. “No person while he continues to exercise the functions of a bishop, priest, clergymen, or teacher of any religious persuasion, denomination, society, or sect, whatsoever, shall be eligible to either house of the general assembly; nor shall he be appointed to any office of

that could exercise religious, economic, and ultimately legal control alike—struck the non-Mormon Missourians as invasive and insufferable. These concerns were often cited by the settlers, but have not received adequate attention by scholars, which this thesis will labor to address.

Chapter 1 will consider the Mormon concept of Zion in its cultural and theological context. It will argue that the idea of building Zion – a communitarian and millennialist community – was not foreign to the American religious experience, and was deeply rooted in its cultural context. It will also give a history of the concept of Zion itself and argue for its centrality within early Mormon thought. Chapter 2 will give a history of the building of Zion in Jackson County and the violence and expulsion that resulted. It will also consider the Mormon attempts at legal redress at the local, state, and federal level, and will argue that despite these attempts, Mormon civil rights were ultimately violated with impunity. Chapter 3 will recount the history of the Mormon experience in Clay County, Missouri from 1834 through 1836, with particular focus on the development of a Mormon theology of resistance, the marshaling of a Mormon militia force, the eventual expulsion from Clay County, and the settling of the Saints in Caldwell County. The concluding chapter will summarize the events of the Mormon War of 1838 and will reflect on the causes of that conflict (as well as the conflicts of 1833 and 1836), and consider their implications for American religious liberty more generally.

profit within the state, the office of justice of the peace excepted.” Missouri Constitution, 1820, art. 3, sec. 13. For more on the protestant establishments that predominated in early America see Chapter 1 at pg. 21.

Chapter 1:

Zion in Early Mormonism and American History

Introduction

Crucial to understanding the cause of the conflicts in Missouri between the Missourians and the Mormons throughout the 1830s is understanding who the Mormons were and what they were doing in Missouri. And essential to understanding the Mormon activities in Missouri, is understanding the Mormon concept of Zion, as it was central to their belief and practice. The object of this chapter is to both give an account of the Mormon concept of Zion from its doctrinal sources and, second, to place the idea of the Mormon Zion in its larger cultural context. Such an explication of Zion will better help illuminate the causes and features of the Missouri conflicts more generally.

The theological concept of Zion remains one of the least understood aspects of Mormon history and thought. Although several able scholars have written about the doctrine in one way or another, there has been no serious attempt to understand it in its cultural context and then relate it to the tensions in the Missouri period.¹⁶ Moreover, there has been little in-depth inquiry into the Mormon scriptural texts themselves, and those that have

¹⁶ The best single work on the concept of Zion of early Mormonism in its cultural context is Mark Ashurst-McGee's, "Zion Rising: Joseph Smith's Early Social and Political Thought" (PhD Diss., Arizona State University, 2008), however, it focuses more on the internal history of the Mormonism—particularly on Joseph Smith's thought—and less on its relation to the larger American culture. Moreover, it only relates the building of Zion through the expulsion of Jackson County. Still, Ashurst-McGee's dissertation was the first to note the radically political and legal nature of the Mormon concept of Zion—particularly the idea that Zion saw itself as sovereign that would eventually replace the American government—and my thesis is greatly indebted to his contributions. *Ibid.*, 2. Other dissertations have had a similar scope. Warren A. Jennings, "Zion is Fled: The Expulsion of the Mormons from Jackson County Missouri" (Phd Diss., University of Florida, 1962); Marvin Hill, *Quest for Refuge: Mormonism's Flight from American Pluralism* (Salt Lake City: Signature Books, 1989). Hill's work is more of a sociological explanation for the creation of the Mormon Zion rather than it is an analysis of the concept itself.

offered such an inquiry, have not focused on the doctrine in its earliest stages.¹⁷ The problem with this lack of doctrinal or historical context is that the term “Zion” is often used in either an undefined or ill-defined way. Without historical context, the reader is then left to impute his or her own ideas on what the term Zion means. For example, when the word Zion is used it can often conjure thoughts of the concept of “Zionism” or some relationship to Israel, Judaism, or the Middle East. Even within modern Mormonism itself, Mormons have a different meaning for the word Zion than their predecessors did in the 1830s. Modern Mormons usually use the term as to refer to the collective members of the Church or to the Church itself, but its modern usage does not usually denote its early political and geographical significance.¹⁸

In reality, Mormons in the 1830s hoped to create a physical city of Zion in Jackson County, Missouri that was eventually to exist as a separate sovereign nation. Thus, it is necessary to produce a fresh synthesis of the doctrine of Zion in early Mormonism and to place that doctrine within its cultural and religious context. Such contextualization of the Mormon doctrine of Zion will help illumine the Missouri-Mormon conflict more fully, and demonstrate both why the Mormons generated so much animosity among their neighbors and why they were willing to fight and die rather than leave their sacred land.

¹⁷ Robert Millet’s dissertation is perhaps the best treatment on the theology of Zion, but it focuses more on what Zion came to mean in the Utah period and does not focus on the Missouri-period in particular. See, *ibid.*, “The Development of the Concept of Zion in Mormon Theology” (PhD Diss., Florida State University, 1983); see also *War and Peace in Our Times: Mormon Perspectives*, eds. Patrick Mason, J. David Pulsipher, & Richard L. Bushman (Salt Lake City, UT: Greg Kofford Books, 2012); see also D. Michael Quinn, *The Mormon Hierarchy: Origins of Power* (Salt Lake City: Signature Books, 1994).

¹⁸ See, e.g., Elder D. Todd Christofferson, “Come to Zion,” *Ensign*, November, 2008. While Elder Christofferson states that “Zion is both a place and a people,” he does not describe Zion as being in a singular, geographical locus. There is also no mention of Zion’s political and legal sovereignty. *Ibid.*

Zion in Early Mormonism

The Mormon Church was first established on April 6, 1830, in western New York.¹⁹ The movement was centered both on the charismatic leadership and revelations of the young prophet, Joseph Smith Jr., and the newly published Book of Mormon – a text he declared to have translated by “the gift and power of God.”²⁰ In addition to the Book of Mormon, the Saints accepted the Bible and a collection of Joseph Smith’s other revelations as scripture.²¹ And some of the very earliest Mormon theological and scriptural references to the building or creation of a sacred place called Zion are found in these new scriptures.

The Book of Mormon, for example, foretells that soon after its message was to be discovered and translated, a city of Zion was also to be established prior to the return of Jesus Christ to the Earth. “And blessed are they who shall seek to bring forth my Zion at that day, for they shall have the gift and the power of the Holy Ghost; and if they endure unto the end they shall be lifted up at the last day, and shall be saved in the everlasting kingdom of the Lamb.”²² Several Book of Mormon passages warn that those who fight against Zion, “both Jew and Gentile, both bond and free, both male and female, shall

¹⁹ The Church’s first official name was “The Church of Christ,” and then later “The Church of Jesus Christ of Latter-day Saints” in 1838 (which is still the Church’s name today). See Doctrine and Covenants 20:1.

²⁰ The Book of Mormon: Another Testament of Jesus Christ (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 2013) (Title Page).

²¹ Many of Joseph Smith’s revelations were collected and published first as the *Book of Commandments* in 1833 and then later as the *Doctrine and Covenants* in 1835.

²² 1 Nephi 13:37.

perish; for they are they who are the whore of all the earth; for they who are not for me are against me, sayeth our God.”²³

The Book of Mormon also discusses the doctrine of Zion when it recounts Jesus’ post-mortal ministry to a Hebrew people living in the Americas. Jesus tells the people that “ye are the children of the prophets; and ye are of the house of Israel; and ye are of the covenant which the Father made with your fathers, saying unto Abraham: And in thy seed shall all the kindreds of the earth be blessed.”²⁴ As an additional part of this covenant, the “remnant of Jacob” – those the early Mormons understood as the American Indians – were to “build a city, which shall be called the New Jerusalem” and gather there with the house of Israel. “And then shall the power of heaven come down among them,” the text continues, “and I [Jesus Christ] also will be in the midst.”²⁵ Hence, the Book of Mormon was instrumental in creating the expectation that its translation and publication signaled the immediacy of Zion.

In addition to the Book of Mormon, early Mormon revelations received by Joseph Smith also discussed the concept of the Mormon Zion. In April of 1829, a year prior to the organization of the Mormon Church, a revelation counseled Joseph Smith’s assistant, Oliver Cowdery, to “keep my commandments, and seek to bring forth and establish the cause of Zion.”²⁶ On January 2, 1831, the Lord declared in a revelation that He is “the same which have taken the Zion of Enoch into mine own bosom.”²⁷ Here, the revelation is referencing a

²³ 2 Nephi 2:10; see also 1 Nephi 22:14 and 2 Nephi 6:13. Additionally the text of Mosiah 15:29 includes the following prophesy: “Yea, Lord, thy watchmen shall lift up their voice; with the voice together shall they sing; for they shall see eye to eye, when the Lord shall bring again Zion.”

²⁴ 3 Nephi 20:25.

²⁵ 3 Nephi 21:21–25.

²⁶ Doctrine and Covenants 6:6.

²⁷ Doctrine and Covenants 38:4.

story in another early scriptural text from the Book of Moses. The Book of Moses is an expansion of the biblical story of Genesis from Joseph Smith's translation of the Bible, and it includes a much-augmented story of Enoch, not unlike the pseudepigraphic or apocryphal texts of Judaism and early Christianity.²⁸

The story recounts that Enoch heard the voice of God, which told him to call the people to repentance for their many sins. Enoch begins to preach the words he received from God, but he is met with opposition. "And from that time forth there were wars and bloodshed among them; but the Lord came and dwelt with his people, and they dwelt in righteousness."²⁹ At this point in the narrative, Enoch's righteous community gains the title of Zion from the Lord, "because they were of one heart and one mind, and dwelt in righteousness, and there was no poor among them." Enoch then builds a city called "the City of Holiness" or "Zion" for his people, which is eventually "taken up into heaven."³⁰

The remainder of the story of Enoch deals with prophetic visions that Enoch sees of the future Zion. Enoch sees the birth, death, and resurrection of Jesus Christ. And the Lord promises Enoch that Christ will return to the Earth and bring peace, but only after "great tribulations shall be among the children of men." Moreover, before the return of Christ, the Lord promises to preserve his people through the creation of the city of Zion:

And righteousness will I send down out of heaven; and truth will I send forth out of the earth, to bear testimony of mine Only Begotten; his resurrection from the dead; yea, and also the resurrection of all men; and righteousness and truth will I cause to sweep the earth as with a flood, to gather out mine elect from the four quarters of the earth, unto a place which I shall prepare, an Holy City, that my people may gird up their loins, and be

²⁸ "Book of Moses" in *The Pearl of Great Price* (Salt Lake City: The Church of Jesus Christ of Latter-day Saints, 2013).

²⁹ Book of Moses 7:16.

³⁰ Book of Moses 7:21.

looking forth for the time of my coming; for there shall be my tabernacle, and it shall be called Zion, a New Jerusalem.³¹

These texts reveal that the creation of Zion was at the center of early Mormon millennial expectations and theology. The Book of Mormon, its translation and publication, signaled to early Mormons that God would soon gather his “elect” in a place that would be known as Zion. Early Mormons who understood the movement’s earliest revelatory texts were gathering to build a literal, holy city. The concept of Zion, then, was not a latter addition to the Mormon canon nor an insignificant doctrine; rather, it was central to the Mormon eschatological worldview. As Joseph Smith put it in a sermon before the church on April 21, 1834:

Take away the Book of Mormon, and the revelations, and where is our religion? We have none; for without a Zion, and a place of deliverance, we must fall; because the time is near when the sun will be darkened, and the moon turn to blood, and the stars fall from heaven, and the earth reel to and fro. Then, if this is the case, and if we are not sanctified and gathered to the places where God has appointed, with all our former professions and our great love for the Bible, we must fall, we cannot stand, we cannot be saved; for God will gather his saints out from the Gentiles, and then comes desolation or destruction, and none can escape, except the pure in heart who are gathered.³²

Thus, for Smith, Zion was the key not only to physical safety but also to spiritual salvation. As the Mormon movement progressed into 1831, the construction of Zion by the Mormons ceased to be ethereal and became a physical reality. The Zion of Enoch and the Book of Mormon was not just the stuff of antiquarian interest, but rather served as a map for navigating contemporary culture. And the building of Zion factored into the larger millenarian world-view of the Saints.³³

³¹ Book of Moses 7:62.

³² *Times and Seasons*, December 15, 1845.

³³ Grant Underwood, *The Millenarian World of Early Mormonism* (Champaign, IL: University of Illinois Press, 2009), 26–30.

A revelation received on March 7, 1831 cast Zion as a refuge of safety from the growing calamities of the contemporary world. “And it shall come to pass among the wicked, that every man that will not take his sword against his neighbor must needs flee unto Zion for safety” the prophecy declared. “And there shall be gathered unto it out of every nation under heaven; and it shall be the only people that shall not be at war one with another. And it shall be said among the wicked: Let us not go up to battle against Zion, for the inhabitants of Zion are terrible; wherefore we cannot stand.”³⁴ Interestingly, by 1831, Zion was already being conceived as both a place of refuge and as a separate sovereign with its own political and legal authority. The revelations that followed began to discuss not only the law within the church, but also the church’s relation with secular law and institutions.

The Construction of Zion and its Laws

Joseph Smith arrived in Independence, Missouri in July of 1831 and soon after received a set of revelations announcing the “center place,” or the locus of Zion, as being in Jackson County, Missouri, and that many Mormons were to begin to emigrate there.³⁵ But even before Jackson County was declared to be the center place of the Mormons Zion, the revelations increasingly began to proclaim the laws and structure of the Mormon government, as well as its relationship with other governments. It was already understood that the Mormon government was premised on millennial expectations that the nations of the earth would soon pass away, and God and his law would reign supreme. Zion would need its own laws. “But, verily I say unto you that in time ye shall have no king nor ruler, for

³⁴ Doctrine and Covenants 45:68–70.

³⁵ See Chapter 2, at 26.

I will be your king and watch over you. Wherefore, hear my voice and follow me, and you shall be a free people, and you shall have no laws but my laws when I come, for I am your lawgiver, and what can stay my hand?”³⁶ However, the giving of God’s law was to precede the coming of Jesus Christ. “[G]o to the Ohio; and there I will give unto you my law; and there you shall be endowed with power from on high” the revelation proclaimed.³⁷ In essence, the Saints’ political and legal independence was to begin immediately as they would already be receiving divine law to live by in Ohio.³⁸

The revelation also instructed that the Church should begin to exercise economic functions: “certain men should be appointed . . . by the voice of the church; And they shall look to the poor and the needy, and administer to their relief, and they shall not suffer.” These men were also charged to “govern the affairs of the property of this church.”³⁹ A February 9, 1831 revelation dictated the law of the Church further on religious, social, and economic matters alike. The revelation makes the distinction between “the laws of God” (divine law), and “laws of man” (American positive law). The laws of God consisted of several parts. First, there was a missionary duty for Mormons to preach the gospel abroad and prepare for the gathering at the New Jerusalem or Zion. Second, the revelation propounded a moral law premised on the Ten Commandments, which proscribed murder, adultery, lying, stealing, and other evils. Lastly, the revelation required economic redistribution within the Church. “And behold, thou wilt remember the poor, and consecrate of thy properties for their support that which thou has to impart unto them, with

³⁶ Doctrine and Covenants 38:21–22 (January 2, 1831).

³⁷ Ibid., 38:32.

³⁸ Mark Ashurst-McGee, “Zion Rising: Joseph Smith’s Early Social and Political Thought” (PhD Diss., Arizona State University, 2008), 2.

³⁹ Ibid., 38:34–36.

a covenant and deed which cannot be broken.” All who owned property were required to lay the property “before the bishop of my church and his counselors.” The properties would then be redistributed “as much as is sufficient for himself and family.” And any excess property would “be kept in my storehouse, to administer to the poor and needy . . . And for the purpose of purchasing lands for the public benefit of the church, and the building houses of worship, and the building up of the New Jerusalem” These laws were to be “a law to govern my church.”⁴⁰

The revelation also accounted for the interaction of the law of God and the law of man. Despite the fact that a prior revelation promised that the Mormons would eventually have “no laws but my laws,” the revelation recognized the necessity of secular law for the time being. In addition to keeping the laws of the church, the Saints were encouraged to make use of the American legal system: “And it shall come to pass, that if any person among you shall kill they shall be delivered up and dealt with according to the laws of the land.” It also approved the use of secular courts (or the laws of the land) for offenses such as robbery, theft, and lying. Church courts were to be employed for violations of God’s law such as adultery or “any manner of iniquity.”⁴¹

Joseph Smith received another revelation on August 1, 1831 that elucidated further the relationship between Zion’s laws and secular law: “Let no man break the laws of the land” the revelation commanded, “for he that keepeth the laws of God hath no need to break the laws of the land. Wherefore, be subject to the powers that be, until he reigns

⁴⁰ Ibid., 42:1–59.

⁴¹ Ibid., 42:63–93.

whose right it is to reign, and subdues all enemies under his feet.”⁴² A subsequent revelation recognized the constitution particularly as the law of the land:

And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, *belongs to all mankind*, and is justifiable before me. Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land.⁴³

This text makes clear that constitutional rights were reserved for “all mankind” not just Mormons. Lastly, a revelation received on December 16, 1833 encouraged the Saints to seek the enforcement of religious liberty rights and redress for the wrongs that had been committed against them in Jackson County. The revelation begins by explaining that it is the will of God for the Saints to

continue to importune for redress, and redemption, by the hands of those who are placed as rulers and are in authority over you—According to the laws and constitution of the people, which I have suffered to be established, and *should be maintained for the rights and protection of all flesh*, according to just and holy principles; That every man act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment. Therefore, it is not right that any man should be in bondage one to another. And for this purpose have I established the Constitution of this land.⁴⁴

Again this revelation acknowledges that the constitutional rights are to be given to “all flesh.” Another early Mormon document, now Section 134, contains an even fuller exposition of religious liberty rights though this document was not revelation received by Joseph Smith; but rather a “declaration of belief . . . adopted by unanimous vote,” and thus initially not of canonical status.⁴⁵ Although the Mormon kingdom was to operate largely independently of secular government and, ultimately, to be ruled by Jesus Christ alone, the

⁴² Ibid., 58: 21–22. (emphasis added)

⁴³ Ibid., 98: 5–7. (emphasis added)

⁴⁴ Ibid., 101: 76–80.

⁴⁵ See Ibid., Section 134.

Mormon theological texts are replete with examples of respect and deference for the constitution and for rule of law more generally.⁴⁶

Based on the revelations, Zion was to be governed by its own set of laws, and in that sense the Mormons operated as a distinct sovereign. But Zion was also to use the secular court system for violations of criminal law and befriend the constitution until the return of Jesus Christ. Thus, while the Zion maintained control over many areas of private life and spoke of itself as an independent governmental entity, it still recognized the sovereignty of the United States. Church courts maintained power over economics (through economic leveling) and over private morality. However, the Church did not have its own system of corporeal punishment; rather it relied on “the laws of the land” to punish violations of the criminal law. Mormons who violated divine law could be “cast out,” which would mean losing their membership in the Church as well as the property they had “consecrated” over to the Church.⁴⁷ For Mormon insiders, the Church exercised immense power over its members, especially with regard to its control of land. However, there is no indication that non-Members who lived in the community would have been subject to Mormon Church courts, or forced into the Mormon economic system. Mormon doctrines would be binding on those who entered the Mormon fold “with a covenant and deed.”

Early American Culture and Zion

The Mormon attempt to create their own religious government that prescribed insular economic, social, legal arrangements can seem strange to modern ears—like the

⁴⁶ For more on Joseph Smith’s thought on the constitution see John Welch, “Joseph Smith and the Constitution” in *Sustaining the Law: Joseph Smith’s Legal Encounters*, eds. Gordon A. Madsen et. al. (Provo, UT: BYU Studies, 2014).

⁴⁷ Doctrine and Covenants 42:37.

simple excesses of religious fanatics. While early Mormon beliefs were certainly radical, their attempts to build Zion were less novel than they may appear given the Mormons' historical and cultural context. The idea of religious government – and not least a Hebrew government – was not a very alien concept for its time.

Intellectual historian Eran Shalev has recently demonstrated the pervasive influence of the Old Testament in early American religious and political thought. Many pre-Civil War Americans, he writes, “attempted to make sense of, justify, and reconcile the experimental constitutional arrangements of the young United States and the hallowed political models introduced through the history of what they often called the “Jewish Republic.”⁴⁸ And many early Americans were put at ease by thinking of their new government not as a secular state, but as one premised on a divine origin.

Hence, it became politically popular for early Americans in the revolutionary period and after to envisage the new American experiment in government as parallel to the ancient Jewish government. In their reading of the Old Testament, many Christians saw the new American government as premised on the Jewish constitution, which was a perfect government instituted by God. As Samuel Langdon – the clergyman and President of Harvard College – wrote in 1776, “The Jewish government, according to the original constitution which was divinely established, if considered merely in a civil view, was a perfect republic.”⁴⁹ Again, in 1788, on the eve of the ratification of the United States Constitution, he preached that “the Israelites may be considered as a pattern to the world in all ages; and from them we may learn what will exalt our character, and what will depress and bring us to

⁴⁸ Eran Shalev, *The American Zion: The Old Testament as a Political Text from the Revolution to the Civil War* (New Haven, CT: Yale University Press, 2014), 51.

⁴⁹ Samuel Langdon, “Government Corrupted by Vice” (1775), available at: http://www.belcherfoundation.org/government_corrupted.htm

ruin. Let us therefore look over their constitution and laws, enquire into their practice, and observe how their prosperity and fame depended on their strict observance of the divine commands both as to their government and religion.”⁵⁰

Clergyman Samuel Cooper who preached a sermon before the Massachusetts governor, senate, and the house of representatives on October 25, 1780, had a similar view. Writing about the Hebrew government he concluded that “Abstracted from those appendages and formalities which were peculiar to the Jews, and designed to answer some particular purposes of divine Providence, it [the Old Testament] points out in general what kind of government infinite wisdom and goodness would establish among mankind.”⁵¹ Even the famous heterodox Thomas Paine looked to the Old Testament for example of good government: “Near three thousand years passed away from the Mosaic account of the creation, till the Jews under a national delusion requested a king. Till then their form of government (except in extraordinary cases, where the Almighty interposed) was a kind of republic administered by a judge and the elders of the tribes. Kings they had none, and it was held sinful to acknowledge any being under that title but the Lords of Hosts.”⁵² This common language about the importance of premising government on an Israelite model, points to the common desire in early America for a divinely-based government.

⁵⁰ Samuel Langdon, “The Republic of the Israelites an Example to the American States” (1788), available at: http://www.belcherfoundation.org/moral_law.htm

⁵¹ Samuel Cooper, *A Sermon Preached before His Excellency John Hancock, [...] of the Commonwealth of Massachusetts, October 25, 1780. Being the Day of the Commencement of the Constitution, and Inauguration of the New Government* (Commonwealth of Massachusetts [Boston]: J. Fleet and J. Gill, [1780]), available at: <http://www.belcherfoundation.org/samuel%20cooper%20sermon%20on%20constitution.pdf>

⁵² Thomas Paine, *Common Sense* (1776), available at: http://www.calhum.org/files/uploads/program_related/TD-Thomas-Paine-Common-Sense.pdf

Second, while disestablishment of a national church had been enshrined in the First Amendment to the U.S. constitution in 1791, many Americans still had an appetite for established religion in the years thereafter. Religious establishments continued to exist in early America at the state and local levels, as the First Amendment did not apply to state governments until after the Civil War. And though these formal religious establishments eventually fell out of favor in the new republic—Massachusetts was the last state to discard its formal religious establishment in 1833—most states maintained unofficial Protestant establishments that spanned the length of the nineteenth century. These state establishments often included mandatory Bible reading in schools, Sunday blue laws, laws against blasphemy, laws against immoral behavior, and more.⁵³ Thus, it cannot be said that the states were at all disestablished in the way that they are today.

The desire to be part of a religion that merged elements of church and state can also be seen in some of the religious experiments born out of the Second Great Awakening. Jemima Wilkinson, for example, the founder of the church the Public Universal Friend, established a religious community known as the “New Jerusalem” in the late 1780s in western New York, not far from Joseph Smith’s hometown of Palmyra. As the scholar Paul Moyer writes, the New Jerusalem was an “asylum” where Wilkinson’s followers “could grow in grace and live according to God’s law.”⁵⁴ They also sought to build their city on the frontier because they believed only there they could live out their religious devotion in peace. In the early 1790s, Joseph Meacham and Lucy Wright established a Shaker community in New Lebanon, New York that emphasized a communal form of living where believers were

⁵³ See generally Steven K. Green, *The Second Disestablishment* (New York: Oxford University Press, 2012).

⁵⁴ Paul B. Moyer, *The Public Universal Friend: Jemima Wilkinson and Religious Enthusiasm in Revolutionary America* (Ithaca, NY: Cornell University Press, 2015), 116.

asked to consecrate their property and labor to the group. Each Shaker community was governed by two men (elders) and two women (eldresses).⁵⁵ In 1848, John Humphrey Noyes led a religious commune (later known as the Oneida Community), which believed that because Christ had already returned to in 70 C.E. that it was therefore possible to create Jesus' millennial kingdom on Earth. As part of their efforts to bring about the millennium, the Oneida Community practiced novel economic, social, and sexual arrangements.⁵⁶

Another example that bears striking resemblance to the Mormon project of Zion is that of Mordecai Noah's short-lived experiment in establishing a Hebrew government in western New York in 1825.⁵⁷ In a speech given at the inauguration of Mt. Ararat—the location where Noah intended to build his religious community—he explained his reasoning for creating the new government. “Brothers, Countrymen, and Friends,” he began, “Having made known by proclamation the re-establishment of the Hebrew government, having laid the foundations of a city of refuge, an asylum for the oppressed in this free and happy republic, I avail myself of that portion of my beloved brethren here assembled.” In particular, Noah intended to commence “the great work of regeneration,” which referred rebuilding of a Hebrew government that would serve as a gathering place for the Jews who were currently without a homeland. Noah considered America to be the perfect government and geographical location to establish a new refuge for the Jews. “Two thousand years have nearly elapsed since the dissolution of the Jewish government, and no period has presented itself more auspiciously than the present for its reorganization,” he wrote. It was America's

⁵⁵ Stephen J. Stein, *The Shaker Experience in America: A History of the United Society of Believers* (New Haven, CT: Yale University Press, 1992), 42-44, 94.

⁵⁶ See generally Spencer Klaw, *Without Sin: The Life and Death of the Oneida Community* (New York: Penguin Books, 1994).

⁵⁷ Eran Shalev, *The American Zion*, 76.

robust conception of religious liberty and liberal spirit that made it an ideal place for the creation of Zion, Noah quixotically concluded:

Peace exists among civilized powers, the march of learning and science has been rapid and successful, and mankind are at this day better qualified to estimate the blessings of toleration and liberal views, and better disposed and capacitated to encourage and enforce them, than at any former time. Religion generally, though divided and subdivided into various sects, assumes a milder aspect, and feelings of universal love and charity have superseded the darkness and bigotry of former ages. The nations of the old and new world, including the children of Africa, have had their rights acknowledged, and their governments recognized.⁵⁸

In Noah's view, it was also time for the rights of the Jewish nation, the "oldest of nations . . . without a home, a country or a government" to be recognized. And it was "under the protections of the American constitution and laws" that asylum could be granted to the Jews who were yet persecuted.⁵⁹

Noah planned for his new government not to conflict with the American government, but to conform "therefore to the constitution and laws of the United States." Yet particulars of how such a harmonious relationship between church and state would play out were not addressed. He saw "no difficulty in organizing and concentrating the Jewish nation" within the borders of the United States. The organization of Noah's government was to be organized "under the direction of Judges" rather than under the "regal and sacerdotal governments" of the past. In addition to Mt. Ararat being a gathering place for the persecuted and displaced Jews from all over the world, the call to gather was also extended to the Native Americans – who Noah viewed as members of the lost ten tribes of Israel. "That divine protection which has been bestowed upon the chosen people from the

⁵⁸ Noah's speech at Mt. Ararat was reprinted in the following periodical: *Publication of the American Jewish Historical Society*, 21 (1913): 230–252.

⁵⁹ *Ibid.*

infancy of nature to the present period, has without doubt, been equally extended to the missing tribes, and if as I have reason to believe, our lost brethren were the ancestors of the Indians of the American Continent,” he declared.⁶⁰ Despite Noah’s grand ambitions, the community he envisioned never actually took shape due to a lack of support among his hearers.

This history demonstrates that the Mormon concept of Zion, rather than being a totally alien concept, was part of a larger American impulse that sought the unity of church and state and often the reimagining of social, economic, and political relationships. As disestablishment grew more thorough in the antebellum period, Mormonism provided, as Marvin Hill has argued, a refuge from the alienating effects of American pluralism.⁶¹ But despite it fulfilling a cultural and societal need, the Mormon Zion proved to cause serious problems with its neighbors, who saw the Mormon beliefs and practices as threatening—particularly the Mormon practice of mixing law and politics with theology. And these problems were especially acute in Missouri – the locus of Zion – as the Mormons were obstinately opposed to relinquishing their lands, which for them had sacred significance. The following chapter will begin to tell that story.

⁶⁰ Ibid.

⁶¹ See generally Marvin Hill, *Quest for Refuge: The Mormon Flight from American Pluralism*.

Chapter 2: Expulsion from Jackson County

Introduction

In September of 1830, Joseph Smith received a revelation calling Oliver Cowdery to “go unto the Lamanites [the American Indians] and preach my gospel unto them.” And while it was not yet revealed exactly “where the city Zion shall be built,” the revelation instructed, “it shall be on the borders by the Lamanites.”⁶² Due to the newly passed Indian Removal Act of 1830, the Mormons understood the new location for the American Indians to be in modern-day Kansas and Oklahoma.⁶³ Cowdery and a small group of Mormon missionaries set out to preach to the Indians living near the border of Missouri. On their way to the Indians, the missionaries passed through the town of Independence, Missouri. Not long after arriving in the Indian Territory, their preaching was stymied, however, as the Mormons had failed to obtain a federal permit necessary to communicate with the Indians. When Richard W. Cummins, the federal Indian Agent, learned of the Mormons’ activities, he ordered them to leave the Indian Territory immediately. The Mormons reluctantly complied with Cummins’s demands and returned to Independence, Missouri where they continued their attempts at obtaining a permit.⁶⁴ In Independence, Parley P. Pratt

⁶² Doctrine and Covenants 28:8–9.

⁶³ Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* (New York: Oxford University Press, 2007), 342–52; see also Richard Dilworth Rust, “A Mission to the Lamanites,” February 22, 2013, available at: <https://history.lds.org/article/doctrine-and-covenants-lamanite-mission?lang=eng>.

⁶⁴ For more on the Mormon mission to the Lamanites see Leland H. Gentry, “Light on the ‘Mission to the Lamanites,’” *BYU Studies* 36 (1996-97): 226–34. On February 14, 1831, Cowdery wrote to General William Clark in St. Louis asking him for permission to communicate with the Indians for the purpose of establishing Christian schools. However,

remembered that the Saints had some initial success evangelizing there: “We . . . came over the line, and commenced laboring in Jackson County, Missouri, among the whites. We were well received, and listened to by many; and some were baptized and added to the Church.”⁶⁵

However, this warm reception would quickly fade away.

In July of 1831, Joseph Smith arrived in Independence, Missouri and promptly received a revelation that would transform the young Church’s history in Missouri. “Hearken, O ye elders of my church, saith the Lord your God, who have assembled yourselves together, according to my commandments,” the revelation began. “[T]he land of Missouri . . . is the land which I have appointed and consecrated for the gathering of the Saints.” “Wherefore, this is the land of promise” it declared, “and the place for the city of Zion.” Specifically, Independence was noted as being the “center place” of Zion and the location where a temple would be built, “upon a lot not far from the courthouse.”⁶⁶ In an instant, Jackson County became the most significant geographical location in the world for the Church. Despite the fact that the county was already occupied by several hundred settlers who were culturally and religiously distinct from the Mormons,⁶⁷ the revelation instructed to the Saints to buy lands “that they may obtain it for an everlasting inheritance.”

Cowdery did not receive a response from the general and the Saints failed to secure a permit. *Ibid.*, 229.

⁶⁵ *Autobiography of Parley P. Pratt (1807–1857)* (Salt Lake City: Deseret Book, 2000), ch. 8.

⁶⁶ See Doctrine and Covenants Section 57:1–3.

⁶⁷ R. A. Campbell, ed., *Campbell’s Gazetteer of Missouri: From Articles Contributed by Prominent Gentlemen in Each County of the State. . . .* (St. Louis: By the author, 1874), 265. Historian Steven C. Harper has argued that the vast majority of the citizens of Jackson County were Jacksonian Democrats who views “Blacks (both free and slave), Native Americans, and Mormons” all as threats and that these groups “became related in the minds of Jackson County settlers, whose worst fear envisioned Mormon abolitionists descending upon them in droves to proselytize Native Americans while dictated at every turn by the undemocratic authority of direct revelation.” Steven C. Harper, “‘Overwhelmingly Democratic’: Cultural Identity in Jackson County, Missouri, 1827–1833.” *Mormon Historical Studies* 9 (2008): 1.

It then appointed Algernon Sidney Gilbert to begin to buy lands “in all the regions round about, inasmuch as can be done in righteousness, and as wisdom shall direct” and to establish a store. Edward Partridge, the Bishop of the Church, was commanded to divide the land up for “inheritances” among the people, and William W. Phelps was instructed to establish a printing press. All of those commanded to move to Zion were to take their families with them and to do it “as speedily as can be.”⁶⁸ A clarifying revelation came on August 30, 1831 regarding land purchases, warning that “Zion shall not be obtained . . . by blood, otherwise there is none inheritance for you.” “[Y]ou are forbidden to shed blood,” it cautioned, “lo, your enemies are upon you, and ye shall be scourged from city to city, and from synagogue to synagogue, and but few shall stand to receive an inheritance.”⁶⁹

Thus, while the Saints viewed the land in Jackson County as ultimately an inheritance and desired to “purchase this whole region of country, as soon as time will permit”; the acquisition of Zion could not come through violence or conquest.⁷⁰ The revelation also explained that the “rich and the learned, the wise and noble” were to emigrate to Zion first, and that the “gathering be not in haste, nor by flight.”⁷¹ This counsel was not necessarily followed as one Mormon, John Corrill, remembered that many of the Saints “got crazy to go up to Zion,” and that the Mormon population began to increase with great alacrity in 1831 and 1832.⁷² While the Missourian settlers initially responded to their arrival with relative

⁶⁸ See Doctrine and Covenants Section 57.

⁶⁹ Doctrine and Covenants 63:29–31.

⁷⁰ Doctrine and Covenants 58:52.

⁷¹ Doctrine and Covenants 58:56.

⁷² John Corrill wrote a history of the Mormon Church after defecting from it in 1839, and serves as an important primary source for the Missouri period in Mormon history. Due to Corrill’s both insider and outsider status, his account is particularly helpful. See John Corrill, “A Brief History of the Church of Christ of Latter Day Saints, 1839,” in *The Joseph Smith Papers: Histories Volume 2: Assigned Histories 1831–1847*, eds. Karen Lynn Davidson et al. (Salt Lake City: Church Historian’s Press, 2012), 146 (Hereafter “Corrill History”).

indifference, it did not take long for prejudice and violence to ensue, as both Mormon emigration in the county increased and as the settlers began to learn more about who the Mormons were and what they were trying to do in Jackson County.

In addition to their personal interactions with the Mormons directly, the Mormon periodical, *The Evening and Morning Star*, was one important way through which the settlers began to learn about the Mormon quest to build Zion. The paper printed not only general information interesting to a general audience, but also the revelations of the Joseph Smith and other information regarding the Church's ambitions and beliefs. Readers of *The Evening and Morning Star* would have known that the Saints were gathering to Jackson County to build a religious community in anticipation of the Second Coming of Jesus Christ, and that they were eventually expecting large amounts of emigration from the east.⁷³ An issue in March of 1833 was not coy about the Saints' ambitions: "This church was established in these last days, by the will and commandments of the Lord," the editor stated, "to bring to pass the gathering of his elect . . . and the place of gathering, as has been before published, is in the western boundaries of the state of Missouri." "There are many branches of this

⁷³ For example, *The Evening and Morning Star's* first volume in June 1832 explained some the new religion's ambitions and religious peculiarities:

It is the duty of the church of Christ, in Zion, to stand as an ensign to all nations, that the Lord hath set his hand the second time to restore the house of Israel to the lands of their inheritances, &c. and it behoves [sic] the members of this church, to manifest before the world by a godly walk; by a noble example, as well as by sterling precept; by prudence in living; by plainness in dress; by industry; by economy; by faith and works, and above all, by solemnity, humility, and patience, that this is a day of warning and not a day of words.

Ibid., "To the Church of Christ Abroad in the Earth." See also in *The Evening and Mormon Star* the following articles that referenced the Saints ambitions regarding Zion: "The Elders of the Land of Zion to the Church of Christ Scattered abroad," July 1832; "Autumn," November 1832; "Prospects of the Church," March 1833; and "The Elders Stationed in Zion to the Churches Abroad, in Love, Greeting," July 1833. Also cited in Matthew Lund, *The Vox Populi is the Vox Dei: American Localism and the Mormon Expulsion from Jackson County, Missouri* (Master's Thesis, Utah State University, 2012), 19.

church abroad,” he continued, “in Missouri, Illinois, Indiana, Ohio, Virginia, Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Maine and Canada; and many of them will come up this season, if the Lord will.”⁷⁴

While the Mormons’ claimed that their intentions in Jackson County were ultimately peaceful, their efforts at building Zion began to cause problems. Zion, with its economic communalism and religious radicalism and exclusivity clashed with the culture of the settlers. Moreover, their growing numbers upset many of the settlers who feared that the Mormons would soon obtain a political majority, and that they would thereafter be governed by religious fanatics.⁷⁵ As early as the spring of 1832, some of the concerned settlers began to harass the Saints. Edward Partridge reported that bands of vigilantes “began to brick-bat or stone the houses of the saints, breaking in windows &c. not only disturbing, but endangering the lives of inmates.”⁷⁶ Such intimidation, however, did not deter the continued emigration to the county.

By the early part of July 1833, the Mormon population had grown to over one thousand,⁷⁷ and on July 20, 1833, many of the Jackson County residents felt sufficiently threatened to move to action. The *Fayette Western Monitor* reported that a group of around

⁷⁴ *The Evening and Morning Star*, “Prospects of the Church,” March 1833.

⁷⁵ See “Regulating the Mormonites,” *Daily Missouri Republican*, August 9, 1833.

⁷⁶ Mormon Bishop Edward Partridge – who was present for much of the hostilities in Missouri – wrote a history of Mormon persecution in 1839 upon Joseph Smith’s request. Partridge’s history also serves as an important primary source for the period. In it he states that: “As the church increased the hostile spirit of the people increased also. – The enemies circulated from time to time, all manner of false stories against the saints, hoping thereby to stir up the indignation of others.” Edward Partridge, “A History, of Persecution” in *The Joseph Smith Papers: Histories Volume 2: Assigned Histories 1831–1847*, eds. Karen Lynn Davidson et al. (Salt Lake City: Church Historian’s Press, 2012), 207 (hereafter “A History, of Persecution”).

⁷⁷ See “Regulating the Mormonites,” *Daily Missouri Republican*, August 9, 1833.

400 to 500 citizens, “composed of gentlemen of every part of the county,”⁷⁸ met at the courthouse in Independence and drafted a set of resolutions “to rid themselves of the set of fanatics called Mormons.” The paper also published a copy of the document containing the resolutions. The document begins with a justification for the actions they purposed to take. For the local settlers, the Mormon problem they faced necessitated an extra-legal solution, as “delays incident to legislation, would put the mischief beyond remedy.” The insufficiency of positive law alone, as they saw it, prompted them to appeal to a higher law: namely, an argument for the natural right to “self preservation.” Before articulating their plan of action, however, they first gave an account of why they considered the Mormon emigration to the county so problematic.

First, they claimed that the rapid emigration was “flooding us with the very dregs of their composition.” The Mormons were, “but little above the condition of our blacks either in regard to property or education,” they complained. “Most of those who have already come, are characterized by the profoundest ignorance, the grossest superstition, and the most abject poverty.” Second, they argued that the Mormons were already having a “corrupting influence on our slaves.” And despite the Mormons attempts to assuage the Missourians’ fears through officially stating their commitment to respecting the laws of Missouri regarding slavery,⁷⁹ the committee believed that the Mormons had made “an

⁷⁸ According to the *Missouri Intelligencer* from August 10, 1833, Colonel Richard Simpson chaired the meeting with Colonel Samuel D. Lucas and Jonas H. Flournoy as secretaries. An additional seven men were appointed to “address the public in relation to the object of the meeting,” which included: Russel Hicks, Esq., Robert Johnson, Henry Chiles, Esq., Colonel James Hambright, Thomas Hudspeth, Joel F. Chiles, and James M. Hunter. Samuel D. Lucas was a Jackson County court justice in 1831. Russell Hicks was then serving as the Jackson County Treasurer and would later become the Deputy Clerk of Court in 1833. For more biographical information Lucas and Hicks see

<http://www.josephsmithpapers.org/reference/people?sort=last>

⁷⁹ See “Free People of Color,” *The Evening and Morning Star*, July 1833.

indirect invitation to the free brethren of color in Illinois, to come up, like the rest, to the land of Zion.”⁸⁰

Third, they charged that the Mormons claimed that the settlers’ lands would eventually be given to them as an “inheritance.” “Whether this is to be accomplished by the hand of the destroying angel, the judgments of God, or the arm of power, they are not fully agreed among themselves.” In the committee’s estimation, *The Evening and Morning Star* itself had declared that it was the Mormons’ intention to take the Missourians’ lands by the sword.⁸¹ Fourth – and perhaps most urgent – they worried that the time was not far distant “when the civil government of the country will be in their hands. When the Sheriff, the Justices, the County Judges will be Mormons.” This was particularly concerning because they thought the Mormons might use the power to take their lands. “What would be the fate of our lives and property,” they questioned, “in the hands of jurors and witnesses, who do not blush to declare, and would not upon occasion hesitate to swear that they have wrought miracles, and have been the subjects of miraculous and supernatural cures; have converse with God and his angels . . . and [are] fired with the prospect of obtaining inheritances without money and without price.” In short, the settlers worried that the Mormons would eventually control local politics to the settlers’ detriment.

Central to the Missourians’ fears was that Mormon political power would be marshaled to unjustly take their lands as inheritances to further build Zion. Yet regarding their beliefs in divine revelation in themselves “we have nothing to say, vengeance belongs

⁸⁰ “Mormonism!” *Missouri Intelligencer*, August 10, 1833 (originally printed in *Fayette Western Monitor*, August 2, 2016).

⁸¹ While individual Mormon members may have held such a belief, there is no indication from *The Evening and Morning Star* that the Mormon Church collectively did. In fact, such ideas were contrary to the revelations. See Doctrine and Covenants Section 63.

to God alone” the committee stated. “But as to the other matters set forth in this paper,” they wrote, “we feel called on by every consideration of self preservation, good society, public morals, and the fair prospects” to remove the Mormons from the county. They then unanimously adopted the following five resolutions:

1. That no Mormon shall in future move and settle in this county.
2. That those now here, who shall give a definite pledge of their intention within a reasonable time to remove out of the county, shall be allowed to remain unmolested until they have sufficient time to sell their property and close their business without any material sacrifice.
3. That the editor of the "Star" be required forthwith to close his office, and discontinue the business of printing in this county; and as to all other stores and shops belonging to the sect, their owners must in every case strictly comply with the terms of the second article of this declaration, and upon failure, prompt and efficient measures will be taken to close the same.
4. That the Mormon leaders here, are required to use their influence in preventing any further emigration of their distant brethren to this county, and to counsel and advise their brethren here to comply with the above requisition.
5. That those who fail to comply with these requisitions, be referred to those of their brethren who have the gifts of divination, and of unknown tongues, to inform them of the lot that awaits them.

The resolutions effectively required the gradual yet complete expulsion of the Mormons from Jackson County. And the expulsion was to be non-violent so long as the Saints complied with the terms of resolutions. Lastly, a committee of twelve men was appointed to ensure that the Mormons complied with the resolutions.⁸²

⁸² The names of the men appointed to the committee included Robert Johnson, James Campbell, Colonel Moses Wilson, Joel F. Chiles, Hon. Richard Fristoe, Abner F. Staples, [Garr] Johnson, Lewis Franklin, Russell Hicks, Esq., Col. S. D. Lucas, Thomas Wilson, and James M. Hunter, to whom was added Col. R. Simpson, Chairman. See “Mormonism!” *Missouri Intelligencer*, August 10, 1833 (originally printed in *Fayette Western Monitor*, August 2, 2016). Moses Wilson operated a store in Independence, Missouri at the time and was later made a justice of the court in Jackson County in 1834. See <http://www.josephsmithpapers.org/person/moses-greer-wilson>. Richard Frisco had been

The document reveals that the citizens of Jackson County knew that they were breaking the law, but they believed the “peculiar situation” before them justified the use of extra-legal force. In their estimation, the wellbeing of the majority transcended the rights of any minority, including rights of religious liberty. In addition, it shows that one of the Missourians’ central fears was that the Mormons would let their religious ideas and peculiarities – especially those related to the doctrine of Zion – influence their political behaviors. It was not simply that they feared losing political offices and influence, it was that they feared that the Mormon religion could be imposed on them through the county’s legal and political institutions, if they gained a political majority.

The Expulsion in its Historical Setting

One question that emerges from the acts of the settlers is why they felt justified in openly breaking the law. Indeed, the 1820 Missouri Constitution contained many provisions regarding religious liberty not unlike both other contemporary state constitutions and the First Amendment of the U.S. Constitution. Specifically, Article VIII, Section 4 of the 1820 Missouri Constitution guaranteed both freedom of conscience provisions and freedom from coercion. It provides that

all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can be compelled to erect, support, or attend any place of worship, or to maintain any minister of the gospel, or teacher of religion; that no human authority can control or interfere with the rights of conscience; that no person can ever be hurt, molested, or restrained in his religious profession or sentiments, if he do not disturb others in their religious worship.

the presiding judge in Jackson County since 1827. See <http://www.jacksongov.org/592/County-Judges-1826---1922>

Section 5 further guarantees that no individual, “on account of his religious opinions, can be rendered ineligible to any office of trust or profit under this state; that no preference can ever be given by law to any sect or mode of worship; and that no religious corporation can ever be established in this state.” The constitution also contains a freedom of speech clause in Section 16, and in Section 18 an exemption from “bearing arms” for those who are “religiously scrupulous.”⁸³ Given such expansive state constitutional guarantees, why were the leaders of Jackson County so willing to produce a document—for all to see—stating that they intended to circumvent the constitution? Furthermore, why did they gather at the courthouse of all places, if they knew what they were doing was illegal? The Missourians felt justified in their actions for three primary reasons.

First, the Missourians thought they were acting in accord with higher law and, therefore, not actually breaking the law. By appealing directly to the natural law, the “law of self-preservation,” the Jackson County citizens were embracing a waning yet still common view in their day: that natural rights were a type of higher law that was superior to the laws on the books.⁸⁴ When the law no longer protected natural rights, it was the privilege of the people to break it. This was not an argument out of whole cloth; but was consistent with the most powerful legal authority available to them: William Blackstone. As Lawrence Friedman has observed, “frontier law was not book law in the usual sense. There were no libraries and books were expensive. . . . The poverty of source materials left a vacuum, filled in by

⁸³ *Missouri Constitution*, 1820, available at:

<http://cdm16795.contentdm.oclc.org/cdm/ref/collection/p16795coll1/id/41>

⁸⁴ Ted A. Smith, *Weird John Brown: Divine Violence and the Limits of Ethics* (Redwood City, CA: Stanford University Press, 2014); see also Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975).

Blackstone, local statutes, and native wit.”⁸⁵ In Section 2 of the introduction of his *Commentaries on the Laws of England*, Blackstone establishes the legal supremacy of natural law over positive law: “This law of nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. -It is binding over all the globe in all countries, and at all times; no human laws are of any validity, if contrary to this.”⁸⁶

By implicitly referring to arguments found in Blackstone, the Missourians thought they were making a legitimate legal argument supported by a respected authority. Moreover, prior to the revolution, the idea that natural rights of an individual or a community trumped constitutional or statutory laws was the prevailing view in the colonies. Indeed it is clear that the writers of the Declaration of Independence relied on natural law (or, “the laws of nature and nature’s God”) for the legal precedent to break from Great Britain.⁸⁷ In that sense, the Missourians were taking part in a long tradition of American higher law. However, these views were not universally held by 1830. And many Missourians rejected the actions of the settlers in Jackson County. The response to the Jackson County residents’ actions by the editors of the St. Louis newspaper the *Daily Missouri Republican* was not unique: “These proceedings may find some justification in the necessity of the case, but they are wholly at war with the genius of our institutions, and as subversive of good order as the conduct of the fanatics [the Mormons] themselves.”⁸⁸

⁸⁵ Lawrence M. Friedman, *A History of American Law: Third Edition* (New York: Touchstone, 2005), 111.

⁸⁶ William Blackstone, *Commentary on the Laws of England (1765–1769)*, Section Two of the Introduction, available at: <http://lonang.com/library/reference/blackstone-commentaries-law-england/bla-002/>. For a history of the use of natural law by nineteenth century Americans see Charles Grove Haines, *The Revival of Natural Law Concepts* (Cambridge: Harvard University Press, 1930).

⁸⁷ The Declaration of Independence, 1776.

⁸⁸ “Regulating the Mormonites,” *Daily Missouri Republican*, August 9, 1833.

Second, politics and the culture also played a role in views regarding the rule of law. As historian David Walker Howe wrote of the period, “Where Whigs voiced reverence for the supremacy of the law, Democrats more typically celebrated the autonomy of the sovereign people.” As a result, he continues, when being careless “Democrats could close their eyes to the problems of pervasive lawlessness and violence that plagued society.”⁸⁹ This Democratic posture toward the rule of law that Howe describes has largely been categorized by scholars as “localism.” Historian Matt Lund has argued that localism can best explain the settlers’ actions taken against the Mormons:

Mormons and Missourians grew up in an antebellum society that stressed local autonomy and control. American localism was marked by communal regulation and a distrust of outside intrusion or interference by centralized authority. Self-government was conceived of as the collective right of a people to govern and regulate their local community interests. With a lack of tolerance toward nonconformity and social deviance, individuals were expected to conform to local rules and expectations. Private rights were often subordinated to the perceived welfare of the public, even if that meant bypassing constituted law, authorities, and due process. Thus, “power was diffused and flowed from the bottom-up” as nineteenth-century American governance remained decidedly local.⁹⁰

Additionally, Missourians were likely operating under a long-held cultural assumption that those who did not conform with local culture had a duty to leave. John Witte, Jr. and Joel A. Nichols have argued that the frontier in the nineteenth century served as a “release valve” for cases of religious difference in what were largely homogenous towns and communities in the American republic.⁹¹ The expansive American frontier gave rise to the widespread

⁸⁹ David Walker Howe, *What Hath God Wrought* (New York: Oxford University Press, 2007), 411.

⁹⁰ Matthew Lund, “A Society of Like-Minded Men: American Localism and the Mormon Expulsion from Jackson County,” *Journal of Mormon History* 40 (2013): 169–200. Lund’s article is pulled from his Master’s thesis on the topic. *The Vox Populi is the Vox Dei: American Localism and the Mormon Expulsion from Jackson County, Missouri* (Master’s Thesis, Utah State University, 2012).

⁹¹ Religion and the American Constitutional Experiment, 118.

assumption that when a religious minority “could not abide a community’s religious restriction or accept its religious patronage” that minority had a right and a duty to emigrate elsewhere – often at gunpoint.⁹² Indeed, the right to leave or “*ius emigrandi*” had emerged in the West in the Peace of Augsburg (1555) and the Peace of Westphalia (1648) as a way of both protecting religious minorities from violence and preserving local communities in their religion, culture, language, and more. Therefore, the Missourian expectation that the Mormons should emigrate had both historical and cultural precedent and likely did not seem unreasonable because the Mormons were the minority in the county and were not the first to settle there.⁹³ The result, however, was that civil rights – not least religious liberty – were unavailable to religious minorities of the period.

Third, there is strong indication that the Missourians sought to justify their extra-legal measures on the grounds that the Mormons were not actually a real religion and that they were not actually white. It is not incidental, for example, that the settlers referred to the Mormons as “a pretended religious sect,” and as “fanatics” and “knives” who pretended to “hold personal communication and converse face to face with the Most High God; to receive communications and revelations direct from heaven.”⁹⁴ This use of language indicates that the Missourians did not see the Mormons as a legitimate religion. This was not at all uncommon for the time for certain religious movements to be declared outside of the religious mainstream and thus not deserving of the same rights.⁹⁵

⁹² *Ibid.*, 120.

⁹³ Although the Missourians did not explicitly state it, there may have been an implied assumption of first in time, first in right.

⁹⁴ “Whitmer, History, 1831–Circa 1847” in *The Joseph Smith Papers Project Histories Volume 2: Assigned Histories, 1831–1847*, eds. Karen Lynn Davidson et al. (Salt Lake City: The Church Historian’s Press, 2012), 52 (hereafter “Whitmer, History”).

⁹⁵ See generally David Sehat, *The Myth of American Religious Freedom* (New York, Oxford University Press, 2012) (Sehat argues that those who fell outside of the moral establishment

Mormon historian Spencer Fluhman has demonstrated many examples when Mormons were compared to other heretical groups in an effort to undermine their attempts at religious legitimacy.⁹⁶ Similarly, Paul Reeve has argued that many nineteenth-century Anti-Mormons did not consider Mormons to be part of the white race, and that they used this rhetoric to help justify the Mormon expulsions from Ohio, Missouri, and Illinois.⁹⁷ Some evidence of this in Jackson County can be seen in the settlers' comment that the Mormons were "but little above the condition of our blacks either in regard to property or education."⁹⁸ Even the settler's use of the term "Mormon," as Parley P. Pratt later commented, had a racial connotation. "[We] were denominated 'Mormons,' in contradistinction to the appellation of 'citizens,' 'whites,' etc., as if we had been some savage tribe, or some colored race of foreigners," he lamented.⁹⁹ Thus, the citizens of Jackson County further attempted to communicate that the Mormons were not deserving of rights by insinuating that they were not truly white and members of a sham religion.

were not granted religious liberty rights and were often persecuted); see also R. Laurence Moore, *Religious Outsiders and the Making of Americans* (New York: Oxford University Press, 2007).

⁹⁶ Fluhman demonstrates that Mormons were initially associated with other movements headed by charlatans and imposters, but as Mormonism grew in success, it began to be compared to Islam as a false religion – as an example of a successful yet false religion. Moreover, Fluhman argues that such a heretical status led to the unprecedented persecution of Mormons in America. See J. Spencer Fluhman, *"A Peculiar People": Anti-Mormonism and the Making of Religion in Nineteenth-Century America* (Chapel Hill, NC: University of North Carolina Press, 2014).

⁹⁷ See generally Paul Reeve, *Religion of a Different Color: Race and the Mormon Struggle for Whiteness* (New York: Oxford University Press, 2015).

⁹⁸ "Mormonism!" *Missouri Intelligencer*, August 10, 1833 (originally printed in *Fayette Western Monitor*, August 2, 2016).

⁹⁹ *Autobiography of Parley P. Pratt (1807–1857)* (Salt Lake City: Deseret Book, 2000), ch. 21. In this passage, Pratt was speaking specifically about the 1838 period, but the distinction of "Mormon" was already common in Jackson County as well.

While some Jackson county citizens argued that Mormonism was not a real religion, others argued that the actions taken against the Mormons had nothing to do with religious persecution. The local preacher, Reverend Isaac McCoy, for example, contended that the idea that the actions taken against the Mormons were a religious persecution was “entirely a mistake,” and that “many have called them fools and fanatics, but I never heard that they had been once interrupted in the performance of their religious services, nor that the slightest injury had been done to either their persons or property on account of their religious opinions and practices.”¹⁰⁰ By providing such a narrow construal of what could be defined as religious persecution, McCoy attempted to demonstrate that the Mormons were not actually persecuted in their religious practice and thus the Missourians had not violated constitutional law.

Many Mormons and non-Mormons, however, did not accept the argument that the persecution was not based on religious prejudice, at least in part. For example, one witness to the events, Nathan Tanner Porter, later remembered that the Jackson County settlers threatened “violence to all who were believers in ‘Joe Smith,’ as they called him.” They also took an oath to drive from the county “every man, women [sic] and child, who would not renounce Mormonism.”¹⁰¹ Another resident of Jackson County, Alexander Majors, wrote that the trouble with the Mormons “grew out of the fact that they claimed to have seen an angel, and to have received a new revelation from God which was not in accord with the religious denominations that existed in the community at the time.” In his view, the persecution was rooted in religious causes, as the Saints were otherwise “industrious, hard-

¹⁰⁰ “The Disturbances in Jackson County,” *Daily Missouri Republican*, December 20, 1833.

¹⁰¹ Autobiography of Nathan T. Porter (1820-1897), Church History Library, Salt Lake City, UT.

working people, and worked for whatever they wanted to live upon, obtaining it by their industry, and not by stealing it from their neighbors.”¹⁰² The Governor of Missouri, Daniel Dunklin, wrote to the Saints opining that what happened to the Mormons was primarily due to religious prejudice. It is as if “war had been waged against the whole state . . . for that which is the case of the Mormons today, may be the case of the Catholics tomorrow, and after them, any other sect that may become obnoxious to a majority of the people,” he argued.¹⁰³

Taken together, then, the Jackson County citizens who drafted the resolutions likely knew that their actions were controversial yet not altogether unprecedented during the period. Moreover, they seemed confident the natural law as well as the principle of localism were on their side, and that their actions would be free from executive interference. And it is for these reasons that they did not fear holding a public meeting, and releasing the names of the committee. The arguments they relied on to push the Mormons out of their community also demonstrate the very limited nature of religious liberty that existed in communities that held such beliefs. Furthermore, the settlers’ grievances show that their primary concern was with the Mormon emigration to the county and the fear that they may lose their property and way of life if the Mormons were to obtain a political majority. Simply put, Zion was primarily causing the problem. The doctrine not only brought the Mormons to Jackson County in droves, but it also undergirded their religious and economic insularity, which the settlers found threatening. This was only made worse by the Mormon’s belief that they were to possess the land in Jackson County as inheritances in Zion. Although the Mormons had

¹⁰² Alexander Majors, *Seventy Years on the Frontier: Alexander Major’s Memoirs of a Lifetime on the Border* (Chicago: Rand, McNally & Company, Publishers, 1893), 50–53.

¹⁰³ Whitmer, *History*, 65.

received a revelation explaining that they could not obtain the land through bloodshed, the Missourians worried what would become of their lands if the Mormons grew too numerous.

The Destruction of the Mormon Printing Press

After the citizens of Jackson County adjourned from their meeting, the members of the assigned committee met with the Mormon leaders and briefed them on the terms of the agreement.¹⁰⁴ Edward Partridge recorded that they asked the Missourians if they might be given a few months to make a decision regarding the terms of the resolution, as they needed to discuss the issue with Joseph Smith and other church leaders who resided in Kirtland, Ohio at the time. The citizens responded that the Mormons had no more than fifteen minutes to decide. The Mormons replied that they could not make the decision in that amount of time, and the citizens promptly returned to the courthouse and determined by a vote to destroy the Mormon printing press. Edward Partridge described the events that followed soon thereafter:

In a short time, hundreds of the mob gathered around the printing office . . . The press was thrown from the upper story, and the apparatus, book work, paper, type, &c. &c. scattered through the streets. A family, residing in the lower story, was also thrust out in great haste . . . They succeeded in taking Edward Partridge, and Charles Allen, both of whom they tarred and feathered, upon the public square, surrounded by hundreds of the mob.¹⁰⁵

In contrast, the Missourians wrote the following regarding the destruction of the press and the tarring and feathering of Partridge and Allen: the “resolution was, with the utmost order, and the least noise and disturbance possible, forthwith carried into

¹⁰⁴ A History, of Persecution, 209; See also Whitmer, History, 55; Corrill History, 146–47; and “Mormonism!” *Missouri Intelligencer*, August 10, 1833.

¹⁰⁵ A History, of Persecution, 209.

execution, as also some other steps of a similar tendency; but no blood was spilled nor any blows inflicted.”¹⁰⁶

On July 23, the settlers took several prominent Mormon leaders to the public square and in the words of John Whitmer, “determined to massacre us unless we agreed to leav[e] the county immediately.”¹⁰⁷ Under such duress, the Mormon leaders signed a document, which consisted of the following terms: First, that the leaders and half of the Mormons leave the county by the first of January (1834), and the remaining remove by the first of April (1834). Second, that the undersigned church leaders use their influence to prevent any additional Mormons from emigrating to the county. Third, they forbid the Mormons both from resuming the publication of *The Evening and Morning Star* and from opening any additional presses in the county. Fourth, the Mormon store could stay in business, but could not receive any new shipments or inventory. As consideration, “The committee pledge[d] themselves, to use all their influence to prevent any violence being used so long as compliance with the foregoing terms [were] observed by the parties concerned.”¹⁰⁸

Despite signing the agreement, the Mormons did not see it as legitimate given the duress they were placed under. Rather than comply with the terms of the agreement, the Mormons first sought legal redress. On September 28, the Mormons wrote to the Missouri Governor, Daniel Dunklin, for help.¹⁰⁹ The petition, signed by many of the Mormons in

¹⁰⁶ “Mormonism!” *Missouri Intelligencer*, August 10, 1833.

¹⁰⁷ See Whitmer, *History*, 55.

¹⁰⁸ *Ibid.*, 56.

¹⁰⁹ Daniel Dunklin was a Missourian lawyer, and was elected as lieutenant-governor in 1828 and as governor in 1832. Politically, he was a Jacksonian Democrat. He won the election his opponent John Bull in the gubernatorial race in 1832 with 9,121 to 8,035 votes. He was more popular among country voters than city voters though he professed sympathy for South Carolina (having been originally from there) in the nullification crisis, he was

Jackson County, documented the hostilities between their people and the citizens of Jackson County. The petitions included claims of destruction of property in 1832, the destruction of their printing press, and the physical assault of their leaders that summer. The Mormons estimated that they had sustained 6,000 dollars of damages exclusive of the costs of their press being out of operation. But perhaps most acutely, the writers articulated violations of their constitutional rights:

Believing with all honorable men, that wherever that fatal hour shall arrive that the poorest citizen's person, property, or rights and privileges, shall be trampled upon by a lawless mob with impunity, that moment a dagger is plunged into the heart of the constitution, and the union must tremble! Assuring ourselves that no republican will suffer the liberty of the press, the freedom of speech, and the liberty of conscience, to be silenced by a mob, without raising a helping hand to save his country from disgrace we solicit assistance to obtain our rights, holding ourselves amenable to the laws of our county whenever we transgress them.¹¹⁰

The Mormons appealed to the governor because they believed that there would be no other way to obtain redress or damages in a county that, by the will of a majority, had decided to force the expulsion of the Mormons. The Mormons requested the governor's direct intervention:

Knowing as we do, that the threats of this mob, in most cases, have been put into execution, and knowing also that every officer, civil and military, with a very few exceptions, has pledged his life and honor to force us from the county, dead or alive; and believing that civil process cannot be served without

Jacksonian in his political leanings. According to his address of January 12, 1833, he opposed what he saw as overreaches of the federal judiciary. He did not believe that the federal courts had the power to nullify the laws of individual states. He resigned from the office of governor to become the Surveyor-General of Missouri, Illinois, and Arkansas. During his tenure as governor he advocated for creating a centralized banking system in the state, public education for the rich and poor, the creation of a state university, institutions to care for the deaf and dumb, the creation of good public roads, and for the abolition of whipping as punishment for crimes, and for the creation of a state penitentiary system. Buel Leopard and Floyd C. Shoemaker, eds., *The Messages and Proclamations of the Governors of the State of Missouri* (Columbia, MO: The State Historical Society of Missouri, 1922), 219–224.

¹¹⁰ B. H. Roberts, ed., *History of the Church of Jesus Christ of Latter-day Saints*, 7 vols. (Salt Lake City: Deseret Book Company, 1948), 1:415 (hereafter “HC, ___”).

the aid of the executive; and not wishing to have the blood of our defenseless women and children to stain the land which has once been stained by the blood of our fathers to purchase our liberty, we appeal to the Governor for aid, asking him to raise by express proclamation, or otherwise, a sufficient number of troops, who, with us, may be empowered to defend our rights, that we may sue for damages for the loss of property, for abuse, for defamation, as to ourselves, and if advisable try for treason against the government; that the law of the land may not be defiled, or nullified, but peace be restored to our country. And we will ever pray.¹¹¹

Mormon leaders W. W. Phelps and Orson Hyde delivered the petition directly to Governor Dunklin in Jefferson City on October 8, 1833. Dunklin responded on October 19. Dunklin stated he was willing to “employ all the means which the constitution and laws have placed at my disposal, to avert the calamities with which you are threatened” so long as it was within his constitutional powers. Moreover, Dunklin agreed with the Saints that the Jackson County citizens’ actions were illegal and unconstitutional. “No citizen, nor numbers of citizens,” he wrote, “have a right to take the redress of their grievances, whether real or imaginary, into their own hands: Such conduct strikes at the very existence of society, and subverts the foundation on which it is based.”

He, however, did not yet believe that executive intervention was necessary, as he still believed the citizens of Missouri maintained a respect for the rule of law. Rather, he advised the Mormons to make a “trial of the efficacy of the laws.” He instructed them that if they should feel endangered again that they should either appeal to the circuit judge or to the county justice of the peace, and that either individual would have the authority to apprehend and bind individuals as needed to keep the peace. In short, his plan was for the Mormons to

¹¹¹ HC, 1:416.

attempt to use the local courts to obtain both criminal injunctions and civil damages and, if their efforts did not avail them, he would “enforce a faithful execution” of the law.¹¹²

Some commentators have argued that the governor’s advice was at best naïve and at worst duplicitous.¹¹³ Others have thought it to be well-meaning. The Mormons themselves did not seem to initially question Dunklin’s sincerity.¹¹⁴ However, there is strong evidence that Dunklin was not sincerely interested in obtaining redress for the Mormons, despite his ostensible commitment to the rule of law. Dunklin directed the Mormons to use the local courts and juries, which would be largely comprised of their enemies – individuals who were trying to expel the Mormons from the county. Dunklin was also aware that several hundred citizens – many of them among the most prominent – had met and drafted an illegal document demanding the expulsion of the Mormons and had already ordered the destruction of the Mormon press and assaulted Mormon leaders. The local courts and county justice of the peace lacked the capacity to contain a mob of that size. It seems unlikely that Dunklin believed his advice would provide justice for the Mormons.

This idea is further supported by Dunklin’s belief in popular sovereignty as a Democratic politician.¹¹⁵ A letter from the governor to the Saints in 1836 when the Saints were later being forced out of Clay County reveals his strong belief in the autonomy of the

¹¹² Daniel Dunklin to Edward Partridge et. al., October 19, 1833, W. W. Phelps, Collection of Missouri Documents, Church History Library, Salt Lake City, Utah (hereafter “W. W. Phelps Collection”); see also HC, 1:423–24.

¹¹³ See, e.g., Richard Lloyd Anderson, “Clarification of the Boggs Order” in *Regional Studies in Latter-day Saint History: Missouri* eds. Arnold K. Garr and Clark v. Johnson (Department of Church History and Doctrine, BYU 1994), 28–29.

¹¹⁴ At certain times throughout the period, the Saints seemed to see Dunklin as working for their interests: “About the middle of the month, [December 1834] the message of Governor Dunklin, of Missouri, to the legislature, arrived at Kirtland. It was read with great interest, and revived the hopes of the Church for the scattered brethren of Jackson county.” HC, 2:177–78.

¹¹⁵ See note 109 herein.

sovereign people, and this was likely his position already in 1833. “Public sentiment may become paramount law,” he later told the Saints, “and when one man, or society of men become, so obnoxious to that sentiment as to determine the people to be rid of him or them, it is useless to run counter to it.” Because in this republic, he declared, “the vox populi is the vox Dei.”¹¹⁶

Thus, Dunklin’s position on the rule of law appears to be contradictory. He seemed to be supportive of the rule of law generally yet he deeply respected the will of the people, and was not willing to enforce the law contrary to popular will. Part of his unwillingness to enforce the rule of law in the case of the Mormons may have come from his personal disdain for them as a people and his fondness for the people of Jackson County. A letter from the governor to a close friend also corroborates this position. Several months after the Mormons had been expelled from Jackson County, Dunklin wrote on August 15, 1834:

Upon the subject of the poor deluded Mormons and the infuriated Jacksonites, it is unnecessary now to say any thing, and I hope it will continue so. There can be no difficulty in ascertaining the correct course for me to pursue if I am compelled to act. I have no regard for the Mormons, as a separate people; and have an utter contempt for them as a religious sect; while upon the other hand I have much regard for the people of Jackson county, both personally and politically: they are, many of them, my personal friends, and nearly all of them are very staunch democrats: but these are all secondary considerations when my duties are brought into question.¹¹⁷

Thus, it may have ultimately been Dunklin’s own prejudices that explain his legal philosophy more than his ideology.

Whatever the sincerity of Dunklin’s advice, the Mormons began to follow the course that the governor had prescribed, as they had very few other options. The Mormons paid a

¹¹⁶ Daniel Dunklin to W.W. Phelps and others, July 18, 1836, W.W. Phelps Collection.

¹¹⁷ August 15, 1834, Daniel Dunklin Collection (cited in Warren A. Jennings, “Importuning for Redress,” *The Bulletin – Missouri Historical Society* 27 (1970): 26).

retainer of 1000 dollars to hire four prominent local attorneys – Alexander Doniphan, David R. Atchison, Amos Rees, and William T. Wood – “to commence and carry their suits, more or less, through to final judgment.”¹¹⁸ In addition to hiring attorneys, the Mormons determined that they would attempt to defend themselves from any further unlawful actions. “They took the subject of self-defense into consideration, and they found that they would be justified by the laws of both God and man, in defending themselves.” The Mormons thought that self-defense “would dampen the hostile spirit of those who were, at that time, continually threatening them.”¹¹⁹

Violence and Expulsion

When word spread throughout the county that the Mormons had petitioned the governor, hired attorneys, and planned to defend themselves rather than comply with the terms of the agreement: conflict erupted. According to Edward Partridge, the mob “began by stoning houses, breaking in windows and doors and committing other outrages” against the Mormon community. The violence escalated on October 31, 1833 at the Whitmer settlement in Kaw Township several miles west of Independence. That night forty or fifty armed mob members “unroofed” nearly a dozen houses. The mob then “caught three or four of the men, and notwithstanding the cries, and entreaties of their wives and children . . . whipped and beat them in a barbarous manner.”¹²⁰ Orson Hyde also wrote of the whipping that it was so barbarous it “only a breath of life in them.”¹²¹

¹¹⁸ A History, of Persecution, 212.

¹¹⁹ Ibid., 213.

¹²⁰ Ibid., 213.

¹²¹ “Civil War” *Daily Missouri Republican*, November 12, 1833.

The Jackson County citizens likely saw the Mormon use of legal channels as a breach of the sham agreement between the two groups. Because the Mormons did not keep their side of the agreement, the Missourians felt justified in using violence to expel the Mormons from the county. The Mormons responded both by organizing into four or five small armed bodies in order to defend themselves from future abuses and by attempting to obtain peace warrants.¹²² Missouri law gave the local justice of the peace the power to arrest “all persons who shall break the peace, and commit them to gaol [jail] or bail them as the case may require; and also, to cause to come before all persons who shall threaten to break the peace.”¹²³ Mormon leaders took Governor Dunklin’s missive to the local justice of the peace, and applied for a peace warrant in effort to arrest some of the principal leaders of the mob. However, the justice of the peace stated that he “cared nothing about” the letter and refused to grant a peace warrant.¹²⁴

On the night of November 1, a mob gathered outside of the Gilbert & Whitney Store, broke in, and scattered goods and merchandise throughout the street. A group of Mormons arrived on the scene and the mob began to fire at them. The Mormons returned fire, injuring one of the mob members who was shot through the thigh.¹²⁵ The mob then fled, but the Mormons managed to capture one of the attempted escapees, Richard McCarthy. They accosted McCarthy and brought him before Samuel Weston, the Justice of

¹²² A History, of Persecution, 214.

¹²³ “An Act Prescribing the Powers and Duties of the Justices of the Peace and the Manner of Their Appointment,” Laws of the State of Missouri 1825, 469.

¹²⁴ A History, of Persecution, 214.

¹²⁵ “Civil War” *Daily Missouri Republican*, November 12, 1833.

the Peace for the town of Independence. However, Weston refused to grant the Mormons a peace warrant, and McCarthy was subsequently released.¹²⁶

On Saturday, November 2, the Mormons attempted to obtain a peace warrant from the Justice of the Peace for Blue Township, William Silvers.¹²⁷ Although Silvers had not openly joined the mob, he refused to grant the warrant, as he believed his life would be in danger if he did so. The following day a group of four Mormons traveled forty miles to Lexington, Lafayette County, to petition Judge John F. Ryland, justice of the Sixth Judicial Circuit of Missouri, for a peace warrant.¹²⁸ Ryland granted a peace warrant for several of the leaders of the mob, and he instructed the Mormons to deliver the writ to the Sheriff of Jackson County. But when the men returned from Lafayette with the warrants, “it was too late to do anything with them, for the whole county was getting up in arms.”¹²⁹

The conflict turned deadly on November 4 when the citizens called out a mob force in Independence of about 200 to 300 men. A portion of the mob travelled west toward the Mormon settlements along the Blue River, but met a group of armed Mormon men on their way. The mob fired their weapons first, and the Mormons returned fire. Death occurred on both sides: “Two of the mob, and a number of horses were killed, and some five or six wounded . . . the saints had four or five wounded, one by the name of Andrew Barber mortally, who died the next day,” Partridge reported.¹³⁰

Back at Independence, four Mormon leaders, A. Sidney Gilbert, Isaac Morley, John Corrill, and William E. McLellin, were arrested for assault, battery, and false imprisonment

¹²⁶ A History, of Persecution, 214–15. This presumably happened on November 1. See also “Civil War” *Daily Missouri Republican*, November 12, 1833.

¹²⁷ A History, of Persecution, 215 note 42.

¹²⁸ *Ibid.*, 216.

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*, 217. See also “Civil War” *Daily Missouri Republican*, November 12, 1833.

for having accosted the vigilante, Richard McCarty.¹³¹ When the news of the battle reached town, “The majority were for massacreing [sic] the prisoners forthwith;” Partridge wrote, “but a few, more humane than the rest, were not willing to see prisoners murdered, while in open court, they advised them to go to jail to save their lives.”¹³² The Sheriff visited the Mormon leaders while they were in jail and persuaded them that upon their release they would leave the county immediately and encourage the remaining Mormons to leave as well. The prisoners had a second group of visitors who had more sinister intentions. The assailants fired their weapons at the prisoners, but they managed to escape without sustaining any injuries.¹³³

On November 5, Saints near Independence heard that the leaders of the Church had been jailed, and that their lives were in danger. Fearing that they might be put to death, they solicited help from Lyman Wight, the leader of the Mormons at Blue Township.¹³⁴ Wight collected about one hundred Mormon men, many of whom only had clubs as weapons, and began a march toward Independence. However, the group stopped in the woods outside Independence upon hearing that the prisoners had been freed. Meanwhile, the Lieutenant Governor, Lilburn W. Boggs, learned of the Mormon mobilization, and instructed Colonel Pitcher to call out the state militia to end the violence.¹³⁵ Colonel Pitcher led the militia to the forest outside of Independence to confront the Mormon forces. Pitcher ordered the

¹³¹ A History, of Persecution, 217. Mormons had arrested McCarty in the act of ransacking the Mormon store. However, McCarty, suffered no charges for his offenses against the Mormons, and then brought charges against the Mormons for his “false” arrest. See note 45.

¹³² Ibid., 218.

¹³³ Ibid., 218–219.

¹³⁴ Letter from Oliver Cowdery, 28 January 1832, available at, <http://josephsmithpapers.org/paperSummary/?target=x110>

¹³⁵ Boggs returns in the Mormon story as the Governor of Missouri in 1838 who ordered the expulsion of all Mormons from the State of Missouri. See Chapter 4.

Mormons to give up both their weapons and the men who were involved in the shootout from the night before. The Mormons consented to the demands both because they were significantly outnumbered and because they believed at the time that Pitcher was acting under color of law. They turned over 51 guns, a sword, a pistol, and the three men who had participated in the battle at Blue River—though all three men were released the next day.¹³⁶ And while a court of inquiry would later find Pitcher's confiscation of the Mormon arms to be illegal, the Mormons were left defenseless and vulnerable future attacks.

Without any armed opposition, the mob drove the remaining Mormons from Jackson County with ease. Partridge recalled that two of the local clergy leaders from Jackson County assisted in driving out the Mormons—Reverend Isaac McCoy who led about 70 men, and an unnamed clergyman who led 30 more. McCoy conceded that he was present on November 6, but maintained that he was merely there to assure that there would be no violence.¹³⁷ However, there must have been violence or at the very least a threat of violence sufficient to cause the Mormons to flee. Partridge remembered that “the mob stripped some of the saints of their arms, even to penknives; some they whipped, they shot at some, and others they hunted after; as they said to kill them.” Some of the individuals who were beaten never recovered from their injuries.¹³⁸

In addition to physical suffering, the Mormons' economic suffering was also great. According to John Whitmer, “The losses and sacrifices of the saints were very great in the destruction of crops, furniture, clothing . . . and also loss of stock.” Moreover, many of the homes were later burned down. Most of the Mormons fled to Clay County where they were

¹³⁶ Lilburn W. Boggs in the *Daily Missouri Republican*, November 16, 1833.

¹³⁷ Isaac McCoy, “Statement of Rev. Isaac McCoy,” *The Western Monitor*, November 28, 1833.

¹³⁸ A History, of Persecution, 222.

received largely with sympathy. Those who fled to Van Buren County, however, were treated with hostility causing some of the Mormons to return to Jackson County. However, any attempt that Mormons made to return to the county usually resulted in brutal beatings or whippings. John Whitmer summarized the condition of the Saints in the following way:

The situation of our brethren after leaving their homes in Jackson in the most distressing circumstances, in the cold month of November found it difficult to preserve life in many instances, some fled with but few clothes, leaving their beds and bedding, others taking with them what they could carry, and running for their lives, women losing some of their children while fleeing for their lives and thus you may Judge how the poor saints have suffered after having given only a few hints of distress.¹³⁹

Mormon attempts to defend themselves both through law and through self-defense failed, and they were driven from the county. Their appeals to the governor, the justices of the peace, circuit court judge, and their own means of self-defense were no match for the power of the majority. Writing just days after the attacks, Orson Hyde put it thusly: “I am satisfied that it is useless to undertake to enforce the laws in that county under the present circumstances, because there is no one to enforce them. Every officer, civil and military, with one or two exceptions, is either directly or indirectly engaged in the mob.”¹⁴⁰

After being forced from their homes, the leaders of the church in Missouri immediately sought their prophet’s counsel whether to move elsewhere or to try and return to their lands in Jackson County.¹⁴¹ John Corrill, in a letter to the prophet, wrote that he felt justified in having fled Jackson County: “We then thought it wisdom to stop the shedding of

¹³⁹ Whitmer, *History*, 57.

¹⁴⁰ “Civil War” *Daily Missouri Republican*, November 12, 1833.

¹⁴¹ “Letter from Edward Partridge, between 14 and 19 November 1833,” in *The Joseph Smith Papers Documents Volume 3: February 1833 –March 1834*, eds. Gerrit J. Dirmaat et al. (Salt Lake City: Church Historian’s Press, 2014), 349.

more blood; and by agreeing to leave immediately we saved many lives.”¹⁴² Joseph Smith wrote to the Saints first on December 5, 1833 encouraging them not to recommence hostilities, but to stand their ground so long as there was a man left.¹⁴³ He also reminded the Saints not sell the land off as the “Lord has said that Zion should not be moved out of her place.” On December 10, Smith gave additional advice as to how the Saints would regain their lands in Jackson County: “Therefore this is my council that you retain your lands even unto the uttermost, and seeking evry lawful means to obtain redress of your enemies . . . when the Judge fails you, appeal unto the Executive, when the Executive fails you, appeal unto the President . . .”¹⁴⁴ Rather than use force, the Mormons would use legal means to attempt to repossess their lands in Jackson County.

Mormon Attempts at Redress

Despite the lawless measures taken against the Saints and the governor’s failure to prevent the expulsion, the governor took some steps to restore law and order in Jackson County. On November 21, 1833, the Missouri Attorney General, R. W. Wells, was the first state official to reach out to the Mormons after the expulsion. Writing to the Saints’ attorneys Alexander Doniphan and David Atchison, Wells said that the governor would be willing to provide a militia to help reinstate them in their homes in Jackson County if they so wished, and suggested that the Saints write to the governor asking that a militia be marshaled for that purpose. He told them that if they were to “organize themselves into regular

¹⁴² “Letter from John Corrill, 17 November 1833,” in *ibid.*, 354

¹⁴³ “Letter to Edward Partridge and Others, 5 December 1833,” in *ibid.*, 374.

¹⁴⁴ “Letter to Edward Partridge and Others, 10 December 1833,” in *ibid.*, 379.

companies, or a regular company of militia,” he had little doubt they would be supplied with public arms.¹⁴⁵ Three days later, on November 24, 1833, Judge Ryland wrote to Amos Rees, who was then the Prosecuting Attorney for Missouri’s Fifth Judicial Circuit and legal to counsel to the Mormons.¹⁴⁶ Ryland explained that the governor had asked Ryland to inform him regarding “the outrageous acts of unparalleled Violence that have lately happened in Jackson County,” and to take the necessary steps, “to punish the guilty and screen the innocent.” To that end, Ryland was willing to travel to Jackson County to conduct a court of inquiry,¹⁴⁷ and to arrest and bind over any individuals of the mob as needed. Ryland’s desire to maintain law order was evident. “It is a disgrace to the State for such acts to happen within its limits,” he lamented, “and the disgrace will attach to our official characters, if we neglect to take proper means to insure the punishment due such offenders.”¹⁴⁸

Although the Saints were eager to restore their rights and welcomed Judge Ryland’s offer to come to Jackson County to hold court, they were hesitant to return there for an immediate court of inquiry. The vast majority of Mormon witnesses were convinced that they would be physically harmed if they returned to Jackson County and that the law could do little to protect them. Moreover, “An immediate court of inquiry, called while our people are thus situated,” the Mormon leader, A.S. Gilbert, wrote to the governor, “would give our Enemies a decided advantage in point of testimony, while they are in possession of their

¹⁴⁵ R.W. Wells letter to Mr. Doniphan and Atchison, November 21, 1833, W. W. Phelps Collection; see also HC, 1: 445–46.

¹⁴⁶ Amos Rees biography available at: <http://www.josephsmithpapers.org/reference/works-cited>

¹⁴⁷ A court of inquiry was a legal proceeding similar to the modern preliminary hearing – it is essentially the first hearing in a case before a judge to determine probable cause. See Gordon A. Madsen, “Joseph Smith and the Missouri Court of Inquiry: Austin A. King’s Quest for Hostages,” *BYU Studies* 43 (2004): 93–136.

¹⁴⁸ John F. Ryland letter to Amos Rees, November 24, 1833, W. W. Phelps Collection; HC, 1: 446.

own homes, and ours also, with no Enemy in the County to molest or make them afraid.”¹⁴⁹

The Mormons were in no position to reenter Jackson County and protect themselves as they were still unorganized, outnumbered, and unarmed. The Saints would need protection before a trial of any efficacy could be held.

On December 6, 1833, the Mormon leaders in Missouri sent a signed petition to Governor Dunklin with three principal requests. They first asked to be “restored to our lands, houses, and property, and protected in them by the militia of the State, if legal.” Or, in the alternative, by conferring with President Jackson or Colonel Dodge to send an “attachment of the United States rangers, which might be located at Independence instead of at Cantonment Leavenworth, till peace can be restored.” Second, they asked him to provide them both with arms and the right to organize into armed companies. Third, they asked that, once adequate protection and safety were guaranteed, that he would institute a court of inquiry to hold the perpetrators accountable.¹⁵⁰

The governor responded to the Saints’ December 6 petition on February 4, 1834. Dunklin assured the Mormons that he was willing to do everything within his legal power to obtain redress for them, and that they had a right to his assistance to “be put in possession of their homes from which they have been expelled.” Furthermore, he assured the Saints that they had every right “to organize according to law” a militia for their defense and to “apply for public arms.” Yet he stated that their request for “keeping up a Military force to protect your people and prevent the Commission of crimes and injuries . . . would transcend

¹⁴⁹ A.S. Gilbert letter to Daniel Dunklin, November 29, 1833, W.W. Phelps Collection; HC, 1:446-447.

¹⁵⁰ Petition to Daniel Dunklin, December 6, 1833, W.W. Phelps Collection; see also HC, 1:451-52.

the powers with which the Executive of this state is clothed.”¹⁵¹ Under federal law “the President of the United States is authorized to make the call upon the Executives of the respective States . . . to execute the laws of the Union, suppress insurrection, or repel invasion,” he continued; whereas Missouri law provided for the governor “in case of actual or threatened invasion, insurrection or war, or public danger, or other emergency, to call forth into actual service, such portion of the Militia as he may deem expedient.” Moreover, Missouri law charged the governor with assuring that “the laws are faithfully executed.” Yet none of these powers, he argued, were adequate to grant the Saints’ request. “The words, ‘or other emergency,’ in our militia law, seem quite broad;” he allowed, “but the emergency to come within the object of that provision, should be of a public nature.” While he admitted that the Mormon situation was “a very emergent one,” he did not see it as being of a public nature.¹⁵²

The governor’s argument as to why he could not keep the military in Jackson County to protect the Mormons until peace was restored was weak at best. To be sure, many early Americans despised the idea of standing armies.¹⁵³ But opposition to standing armies was only politically unpopular, not a violation of the law. There is a strong argument that stationing the militia in Jackson County until peace was restored was necessary to make sure that the laws were faithfully executed. Somehow, however, Dunklin could conclude that the violence and rights violations against 1200 individuals domiciled in Missouri, and a county

¹⁵¹ Daniel Dunklin letter to W.W. Phelps et al., February 4, 1834, W.W. Phelps Collection; see also Whitmer, *History*, 64.

¹⁵² *Ibid.* (internal quotations omitted).

¹⁵³ Matthew Lund, *The Vox Populi is the Vox Dei: American Localism and the Mormon Expulsion from Jackson County, Missouri* (Master’s Thesis, Utah State University, 2012), 88. Furthermore, Akhil Amar has noted that militias during the period were often used to defend the majority culture rather than to protect minority rights and interests. Akhil Reed Amar, *The Bill of Rights: Creation and Reconstruction* (New Haven: Yale University Press, 1998), 55–56.

that had completely disregarded the rule of law, were problems not of a public nature. But even if the issues were of a private nature, as he suggested, this would not preclude the prosecution of criminal cases alongside the civil cases. Thus, it is difficult to see how the Missouri Constitution barred him from intervening. Furthermore, even if the governor thought that he could not personally intervene, he maintained the power to petition to the federal government for help. Yet he failed to apprise the Saints of this option.¹⁵⁴ Dunklin's narrow reading of his duties, then, was likely more of a product of his politics than it was a strict reading of his constitutional duties.

While Dunklin was unwilling to station the militia for the Mormons' protection, he did agree to help the Mormons in another way. He ordered the Liberty Blues, a state militia company, to protect Mormon witnesses who wished to testify in the court of inquiry in Jackson County. W. W. Phelps detailed the event in a letter to the Church in Kirtland, Ohio. "About a dozen of our brethren were subpoenaed by the state on the 23d [February 1834]," he reported. The Liberty Blues militia, which consisted of about 50 well-armed men, met the Mormon witnesses and escorted them to a riverbank near the outskirts of Jackson County. "The scene was one 'passing strange' and long to be remembered," he recalled, "The martial law [was] enforced to guard the civil!" However, before arriving at the courthouse, District Attorney Rees and Attorney General Wells met with the Mormons and explained to them "that all hopes of criminal prosecution were at an end." "Mr. Wells had been sent by the governor to investigate, as far as possible, the Jackson outrage, but the bold front of the mob, bound even unto death, (as I have heard) was not to be penetrated by civil law, or

¹⁵⁴ See below, pg. 59–61; see also *Houston v. Moore* 18 U.S. 1 (1820). The Court acknowledged that both the federal and state governments through the executive had concurrent power to call militias.

awed by Executive influence,” Phelps lamented. Not long after, the Mormons received word from Judge Ryland, who had been charged with conducting the court of inquiry, that the “company’s service was no longer wanted in Jackson county” due to the influence of the mob. The Mormons were then “marched out of town to the tune of Yankee-doodle in quicktime,” Phelps concluded.¹⁵⁵ The rule of law in Jackson County had completely fallen apart.

The Saints’ Appeal to President Andrew Jackson

With the local law inoperative and with the governor unable or unwilling to offer protection, the Mormons finally appealed to the President of the United States, Andrew Jackson. The Mormons penned an impassioned summary of the harms that were inflicted upon them in Jackson County, which they framed primarily as an infringement of their freedom of religious freedom. “Such illegal violence has not been inflicted upon any sect or community of people by the citizens of the United States since the Declaration of Independence,” they declared.¹⁵⁶ “Not only have those sacred rights guaranteed to every religious sect been publicly invaded, in open hostility to the spirit and genius of our free government,” but also their rights to property and press had been violated.

¹⁵⁵ Letter from William W. Phelps, February 27, 1834, available at: <http://www.josephsmithpapers.org/paper-summary/letter-from-william-w-phelps-27-february-1834/1>

¹⁵⁶ While the expulsion from Jackson County may have been the most egregious illegal violence carried out against a white, religious community, it was by no means the worst violence carried out against any community. As part of a larger national campaign of “Indian Removal,” the Choctaws, for example, were removed from Mississippi to Oklahoma between 1831–1833 without the majority of the tribe’s approval, amid inclement weather. See Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815–1848* (New York: Oxford University Press, 2007), 353.

Explaining that the governor's power was insufficient to protect them in repossessing their lands, the Saints asked the president to use his power to do so. Citing Article 1 Section 10 Clause 15 of the Constitution of the United States the Saints argued that, "Congress [has] the power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, or repel invasions; and for these purposes the President of the United States is authorized to make the call upon the executive of the respective states." On the authority of this text, the Saints asked that the President intervene so that they would "be restored to [their] lands, houses, and property in Jackson county, and protected in them by an armed force, till peace can be restored."

The Saints also wrote to Governor Dunklin asking him to petition the president as well. The governor responded that he would send a letter to the president corroborating the Saints' plea only if he believed that the president had the proper authority to intervene. The governor ultimately concluded that he did not think the president had power to intervene in the manner in which the Saints wanted and therefore never sent the letter.¹⁵⁷ The governor's conclusion, however, was legally erroneous as it had been a noncontroversial fact in America—that as early as 1788—governors could petition the president for federal intervention to quell state lawlessness. As the American military historian Robert W. Coakley concluded: "Throughout the great debates both in the Constitutional Convention and the ratifying bodies, none of the most ardent Antifederalists ever advocated that the federal government should possess no power whatsoever to use military force in domestic disorders. In the ratifying conventions there was little argument at all over the clause permitting the federal government to intervene in a state on the application of its legislature

¹⁵⁷ Whitmer, History, 71.

or governor.”¹⁵⁸ Gubernatorial petitions for federal aid to quell lawlessness were totally uncontroversial in early America. Furthermore, The First Militia Act of 1792 provided that “in case of an insurrection in any state, against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such state, or of the executive (when the legislature cannot be convened) to call forth such number of the militia of any other state or states, as may be applied for, or as he may judge sufficient to suppress such insurrection.” Given the statute on point, the Missouri governor was either unaware of the law or unwilling to go against the popular will of the citizens of Jackson County. However, given the fact that Governor Dunklin had formerly been an attorney, it is highly unlikely that he did not know the law.¹⁵⁹

The president never responded to the Mormons, but he deferred their plea to the War Department. On May 2, 1834 the War Department responded to the Mormons stating that the President lacked the power to intervene under Article 1 Section 8 of the United States Constitution.¹⁶⁰ Lewis Cass,¹⁶¹ writing for the War Department, explained that the offenses against the Mormons were violations of Missouri state law rather than federal law, and that the President could only call out a militia if either the state legislature or executive requested the president to do so.¹⁶² Cass therefore implied that intervention would be lawful

¹⁵⁸ Robert W. Coakley, *The Role of Federal Military Forces in Domestic Disorders, 1789-1878* (Fort McNair, DC: CMH Publishing, 1988), 17.

¹⁵⁹ For biographical information on Daniel Dunklin see <http://www.josephsmithpapers.org/person/daniel-dunklin>

¹⁶⁰ Article 1 Section 8 Clause 15 states that Congress has the power to “provide for calling forth the Militia to execute the laws of the Union, suppress insurrections and repel invasions.”

¹⁶¹ Interestingly enough, Lewis Cass was nationally famous as an exponent of the doctrine of popular sovereignty, which preferred local sovereignty to federal on many important issues including slavery. See Willard Carl Klunder, *Lewis Cass and the Politics of Moderation* (Kent, OH: Kent State University Press, 1996), 266-67.

¹⁶² HC, 1:493.

so long as the petition for intervention came from the governor or legislature and not the Mormons directly.

In terms of rights violations, it was true that the First Amendment did not yet apply to the states, and all of those who harmed the Mormons were Missouri state actors, not federal. Mormon claims, then, arose under violations of state rather than federal law.¹⁶³ It had also long been the case that the president could intervene in domestic conflicts by petition of a state's legislature or governor. Yet the Insurrection Act of 1807, passed during Thomas Jefferson's presidency, afforded the president even broader powers than the First Militia Act of 1792. The law stated that

In all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual state or territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States, as shall be judged necessary, having first observed all the pre-requisites of the law in that respect.

The act allowed the president to call out the federal militia to enforce both state and federal laws not only for suppressing insurrections, but also for obstruction of the laws generally. Furthermore, this power could be carried out to enforce state law without any appeal by the governor or legislature.

Despite this extraordinary power granted to the president and a large spike in local violence at the time, Robert W. Coakley has concluded that, "Federal troops were little used to control the domestic violence of the 1830s." Absent a few examples – such as Nat Turner's Rebellion and an Irish labor riot – federal troops were used for the purpose of

¹⁶³ The First Amendment to the United States Constitution states that "*Congress* shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof" (emphasis mine).

“maintaining federal authority, not of suppressing domestic disturbances.” Nevertheless, the authority to deploy federal troops in domestic disturbances was available to President Jackson and could have been used to help the Mormons. Thus, Lewis Cass’s response to the Mormons was less a statement of legality and more a statement of the Jackson Administration’s policy regarding domestic conflict. It is interesting to think about whether the governor or the president would have permitted the use of the federal military had it been the Mormons persecuting the Jackson County citizens instead of the other way around. With the legal power available, it is hard to imagine that they would not have intervened.

Additional Avenues Taken for Redress

The Mormons had also been working on redress through three other means: civil law suits with the hope of buying out the property in Jackson County, mustering their own military force, and by appeals to the legislature. However, the state legal system failed them in every respect. First, although the attorney general had encouraged the Mormons to organize into companies, this proved to be difficult. The Saints faced problems forming a militia due to a lack of both arms and numbers. Colonel Pitcher had confiscated the Mormon arms, and then distributed them among members of the militia. Governor Dunklin ordered a court of inquiry into Pitcher’s actions, and the court found that Pitcher had acted illegally.¹⁶⁴ Dunklin wrote first to Samuel Lucas and then to Thomas Pitcher and ordered them to return the illegally confiscated weapons to the Mormons. Dunklin’s orders were never followed either because of obduracy or because the weapons had been dispersed

¹⁶⁴ Whitmer, History, 73.

among the mob and were too difficult to retrieve. The governor had also promised access to a “depot of arms on the Missouri river,” yet the Mormons never saw them.¹⁶⁵

The Mormons also faced the problem of being outnumbered. Even if they received adequate weaponry, they would have not likely been able to defend themselves without substantial loss of life. And as the Mormons in Missouri had received no help from the state or federal militia, they ultimately solicited help from fellow Mormons in Ohio. But when Dunklin got word that the Saints had recruited a militia to aid them in repossessing their lands, he was no longer willing to help them. Without the governor’s support, the Saints’ military campaign ultimately failed, as will be discussed in detail in Chapter 3.¹⁶⁶

Attempts at justice by way of suing for civil damages also proved ineffective. According to Edward Partridge, the Mormons had brought several law suits against various citizens of Jackson County, but the cases “progressed so slow[ly], and were attended with such a great amount of costs, that they were all dropped but two.”¹⁶⁷ The Saints kept the two lawsuits “to ascertain whether or not any thing could be obtained by the law.” They then paid 300 dollars for a change of venue to Ray County. The suits were finally ready for trial in the summer of 1836, but the Church’s attorneys, without their clients’ consent, settled both cases before trial. The Saints received just enough damages from the settlement to pay their attorneys fees rather than the several thousand in damages they had hoped for.¹⁶⁸ This would be the last time the Mormon Church would litigate any claims concerning the expulsion from Jackson County.

¹⁶⁵ HC, 2:178, note 7.

¹⁶⁶ See Chapter 3 at pgs. 72–84.

¹⁶⁷ History of Persecution, 227.

¹⁶⁸ Ibid.

The Mormons also sought redress through the state legislature. On November 18, 1834, Dunklin explained to the legislature that the Mormons had been driven from Jackson County and that he had approved a “judicial enquiry into these outrages,” but that “none have been punished for these outrages, and it is believed that, under our present laws, conviction for any violence committed upon a Mormon, cannot be had in Jackson County.” Dunklin then argued that it was for the legislature to make the requisite changes to the law: “It is for you to determine what amendments the laws may require so as to guard against such acts of violence for the future.”¹⁶⁹

The Saints followed-up by sending a petition and documents “on the subject of our rights in Jackson County” to J.T.V. Thompson to be presented before the legislature. On December 20, 1834, Thompson and Atchison, who were friends of the Mormons and members of the Senate, informed the Saints that the “committee on the governor’s message had not reported.” Dunklin later wrote to the Saints that despite his presentation of their condition to the general assembly, congress “did not legislate upon the subject,” and that he was persuaded that they were unable to do so for a “want of a constitutional power to pass any law that could afford you a proper remedy.”¹⁷⁰

In 1833 Edward Partridge predicted the fate of the Saints with seemingly prophetic accuracy:

If we are delivered and permitted to return to our homes it must be by the interposition of God, for we can see no prospect of help from government and it appears to me that nought but the judgments of God will open the way for our return, some of our brn. [brethren] have their fears that we shall be driven from city and from synagogue to synagogue and few be left to receive

¹⁶⁹ Buel Leopard and Floyd C. Shoemaker, eds., *The Messages and Proclamations of the Governors of the State of Missouri* (Columbia, MO: The State Historical Society of Missouri, 1922), 246; see also “Governor Dunklin’s Message,” *Boon’s Lick Democrat*, Fayetteville, Missouri, December 17, 1834.

¹⁷⁰ HC, 2:178, note 7.

an inheritance in the land, and this will be the case unless we are soon restored back, for notwithstanding that many are kind to us in this Co. yet we have every reason to believe that they will shortly be stirred up against us and want to drive further.

Partridge was right. The Saints would be driven first from Jackson County, then from the State of Missouri, and Illinois, before the majority would settle in Utah.

Conclusion

In August of 1836, the editor of the Mormon newspaper, *LDS Messenger and Advocate*, gave his opinion that the cause of the Mormon expulsion from Jackson County was religious in nature.

What then, you will ask, was the cause? We say simply because our brethren took the liberty guaranteed to all citizens of these United States to think differently from the professing Christian world in matters of religion. This was not avowed as the cause in their manifesto, because it was matter of fact, and with this they had but little to do. But that it was the *real* cause you will believe when we say that when six of our brethren were in the hands of this lawless banditti, as a condition of peace and friendship offered them, they must renounce their religious belief, and all would be well. – This they peremptorily refused. The only alternatives they had then left, were death, immediate death or leave the county.¹⁷¹

To the Saints – the vigilantes’ requirement that their people renounce their religion to be allowed to stay in Jackson County – was sufficient evidence that they had suffered persecution because of their religion. Even the governor and many non-Mormons from the area had agreed that the Saints had been persecuted for their religious beliefs and practices.

However, what the editor did not address, was the effect their religion, particularly the concept of Zion, had in augmenting the conflict. The Mormons were moving to Jackson

¹⁷¹ *LDS Messenger and the Advocate*, August 1836.

County in large numbers to establish a religious and political kingdom among their neighbors. In the legal and political atmosphere of the time, where local majorities could rule with little outside interference, it is unsurprising that the Missourians were terrified of the Mormons gaining a political majority that could then be used to persecute them. To the Missourians, Mormon political rule would at best jeopardize their way of life and at worst subject them to the oppressive religious rule by the Mormons.

As the clear majority and the first to own land in the region, the Missourians thought they had every right to demand that the Mormons leave. The Saints, however, were deeply connected to their lands in Jackson County, as they were the loci of Zion. Instead of quickly agreeing to leave, the Saints sought legal recourse through the courts and the governor. This outraged the Missourians who organized efforts of vigilantism to remove the Mormons—which despite armed, Mormon resistance—were ultimately successful. The events that followed demonstrated that local, state, and federal law failed the Mormons. This was not just a failure for the Mormons, however, but evidenced America’s failure to enforce its own constitutional law and to protect its religious minorities. As the editor of the *LDS Messenger and the Advocate* lamented: “Has the liberty of speech, the liberty of the press, the liberty of conscience, become odious to this generation? Is the foundation of all liberty, civil and religious to be sapped and the beautiful superstructure erected thereon by our fathers to be razed to the ground[?]” The answer to these questions posed by the editor, at least for the Mormons and other minority religious groups, was yes. Unfortunately, in the case of the Mormons, the law on the books did not reflect the law in action.

The following chapter will consider Mormon theological and practical responses to their plight, including their development of a theology of resistance and the marshalling of

militia force. It will also detail their continued petitions to the Missouri governor as well as their eventual expulsion from Clay County.

Chapter 3:

The Expulsion from Clay County

Introduction

Immediately following their expulsion from Jackson County, the majority of the Mormon refugees fled north to Clay County “where they were received in a hospitable manner” by the local citizens there.¹⁷² The Mormons managed to live peacefully with their Clay County neighbors in 1834 and 1835, despite attempts by the Jackson County citizens to sow seeds of discontent among their new neighbors.¹⁷³ Mormon relations with the Jackson County citizens, however, remained heated, as the Mormons were actively planning to return to Jackson County and take back their lands with military force. Jackson County was still Zion for the Mormons, and they were not prepared to simply sell it or abandon it.

On February 24, 1834—after hearing first-hand accounts of the sufferings of his people from the leaders of the Church in Missouri—Joseph Smith received a revelation that called for the Saints to organize a military militia known as “the Camp of Israel,”¹⁷⁴ and then to march from Ohio to Missouri to help the Saints repossess their lands in Zion. “But verily I say unto you” the revelation declared, “I have decreed that your brethren which have been

¹⁷² See Corrill History, 149.

¹⁷³ A History, of Persecution, 224; see also Whitmer, History, 75.

¹⁷⁴ Ibid., note 228.

scattered shall return to the lands of their inheritance, and shall build up the waste places of Zion.”¹⁷⁵ Furthermore, the revelation indicated that violence could be necessary: “Behold, I say unto you, the redemption of Zion must needs come by power.” “Let no man be afraid to lay down his life for my sake;” the revelation continues, “for whoso layeth down his life for my sake shall find it.”

In response to the revelation, John Corrill recounted that the Saints in Ohio “gathered up about two hundred and fifty men, who armed themselves, and with Smith at their head, marched to Clay County, where they arrived [on June 19, 1834].”¹⁷⁶ In response to the news that the Camp of Israel was coming to Clay County, John Whitmer recorded that on June 1, “The saints here [in Clay County] are preparing with all possible speed to arm themselves and otherwise prepare to go to Jackson Co. when the Camp [the Camp of Israel] arrives . . . in hopes that the long wished for day will soon arrive. and Zion be redeemed to the Joy and satisfaction of the poor suffering saints.”¹⁷⁷ The Mormons both in Missouri and those on their way from Ohio were planning to take back their lands with force if necessary.

The Camp of Israel and the Mormon Theology of Resistance

The mobilization of Mormon forces to aid their brethren in retaking Jackson County were premised on an emerging Mormon theology of resistance. These developments were spurred primarily by the problem of violence the young church encountered in Jackson County. The conflict presented the Saints with a difficult question of what the Mormons

¹⁷⁵ See generally Doctrine and Covenants Section 103; see also Corrill History, 150 note 88.

¹⁷⁶ Corrill History, 150.

¹⁷⁷ Whitmer, History, 75.

were to do when they encountered persecution—especially persecution that violated their religious and property rights and frustrated their theological goals. Were they to seek justice through the government, turn the other cheek, or fight back? Section 63 of the Doctrine and Covenants had prescribed that Zion was to be legally acquired through purchase and not bloodshed; however, it did not address what to do in the event that Zion was attacked.¹⁷⁸

Soon after Joseph Smith learned of the destruction of the printing press and the tarring and feathering of the leaders in Jackson County, he received a revelation, (now listed as Section 98 of the Doctrine and Covenants), which articulated the Church’s position regarding violence, self-defense, and just war. The revelation can be divided in three categories: 1) doctrine concerning constitutional law and secular leaders; 2) doctrine of conflict among individuals; and 3) the doctrine of conflict among nations.

First, the revelation presents interesting language on the Saints’ positive relationship with American constitutional law. Although Joseph Smith’s Zion was to eventually be a sovereign kingdom apart from the United States,¹⁷⁹ the revelation states that American constitutional law was “justifiable” particularly with regard to its guarantee of rights and liberties:

And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me. Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land; And as pertaining to law of man, whatsoever is more or less than this, cometh of evil. I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free. Nevertheless, when the wicked rule the people mourn. Wherefore, honest men and wise men should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise whatsoever is less than these cometh of evil. And I give unto you a

¹⁷⁸ Doctrine and Covenants Section 63.

¹⁷⁹ Mark Ashurst-McGee, “Zion as a Refuge from the Wars of Nations” in *War and Peace in Our Time: Mormon Perspectives*, eds., Patrick Q. Mason, J. David Pulsipher and Richard L. Bushman (Draper, UT: Greg Kofford Books, 2012), 83–92.

commandment, that ye shall forsake all evil and cleave unto all good, that ye shall live by every word which proceedeth forth out of the mouth of God.¹⁸⁰

Although the revelation is a firm endorsement that the Saints should “befriend” or respect the American legal system, the revelation stops short of claiming that constitutional law is at all coequal with divine law. Divine law was still superior. This revelation’s approach to government corresponds with Joseph Smith’s advice to the Jackson County Saints to seek “lawful means to obtain redress from your enemies . . . when the Judge fails you, appeal unto the Executive, when the Executive fails you, appeal unto the President.”¹⁸¹ Despite its positive language toward government, the revelation gives license for the Saints to forsake or to not uphold any government leader who is not good, wise, or honest.

Second, Section 98 offers a unique theological approach to the principle of retribution among individuals. In a certain sense, the revelation offers a hybrid between the traditional biblical concept of retribution—an eye for an eye, and a tooth for a tooth—and Jesus’ command to turn the other cheek. The revelation essentially promulgates a three-strike rule. The saints were commanded to turn the other cheek—but only three times.

Now, I speak unto you concerning your families—if men will smite you, or your families, once, and ye bear it patiently and revile not against them, neither seek revenge, ye shall be rewarded; But if ye bear it not patiently, it shall be accounted unto you as being meted out as a just measure unto you. And again, if your enemy shall smite you the second time, and you revile not against your enemy, and bear it patiently, your reward shall be an hundred-fold. And again, if he shall smite you the third time, and ye bear it patiently, your reward shall be doubled unto you four-fold; And these three testimonies shall stand against your enemy if he repent not, and shall not be blotted out. And now, verily I say unto you, if that enemy shall escape my vengeance, that he be not brought into judgment before me, then ye shall see to it that ye warn him in my name, that he come no more upon you, neither upon your family, even your children’s children unto the third and fourth generation. And then, if he shall come upon you or your children, or your children’s children unto the third and

¹⁸⁰ Doctrine and Covenants 98:4–11.

¹⁸¹ Gerrit J. Dirmaat et al., eds., *The Joseph Smith Papers Documents Volume 3: February 1833 – March 1834* (Salt Lake City: Church Historian’s Press, 2014), 374.

fourth generation, I have delivered thine enemy into thine hands; And then if thou wilt spare him, thou shalt be rewarded for thy righteousness; and also thy children and thy children's children unto the third and fourth generation. Nevertheless, thine enemy is in thine hands; and if thou rewardest him according to his works thou art justified; if he has sought thy life, and thy life is endangered by him, thine enemy is in thine hands and thou art justified.¹⁸²

In effect, the revelation justifies retribution of personal or family abuses or attacks but only after the following has occurred: the enemy has trespassed against you three times, after the third time you warn the trespasser in the name of God to cease, and the trespasser makes a fourth attempt. At this point you are justified in fighting back by “rewarding him according to his works.” Still, however, the reward is greater if you forgive the enemy even after the fourth offense. The final part of the text seems to indicate that endangerment of life and family are particularly just reasons for the use of violence.

The third section concerns the law of retribution between nations, which operates in a similar way to the law between individuals. First, as it was revealed to the “ancient prophets,” Zion (or the Mormon Church) is never to “go out unto battle against any nation, kindred, tongue, or people, save I, the Lord command them.” Put another way, Zion is never permitted to commit an act of aggression unless commanded to by God. In the event that another nation proclaims war against Zion, “they should first *lift a standard of peace unto that people, nation, or tongue*; [a]nd if that people did not accept the offering of peace; neither the second nor third time, they should bring these testimonies before the Lord; [t]hen I, the Lord, would give unto them a commandment, and justify them in going out to battle against that nation, tongue, or people.” There seems to be no indication that Zion could not defend itself or stand its ground in the event of an attack, but they must receive a commandment from the Lord to justify launching an offensive. However, if at any point Zion’s enemy

¹⁸² Doctrine and Covenants 98: 23–31.

repents “and come unto thee praying thy forgiveness, thou shalt forgive him, and shall hold it no more as a testimony against thine enemy.” The obligation to forgive a nation anew if it has repented is always required: “thou shalt forgive him, until seventy times seven.”

However, in the event that the enemy continues to attack and does not seek forgiveness or repent after the fourth offense “thou shalt not forgive him, but shall bring these testimonies before the Lord; and they shall not be blotted out until he repent and reward the four-fold in all things wherewith he has trespassed against thee. And if he do this thou shalt forgive him with all thine heart; and if he do not this, I the Lord will avenge thee of thine enemy an hundred-fold.” The revelation concludes by stating that God’s vengeance will fall on the third and fourth generations to come unless they repent and “restore four-fold for all their trespasses wherewith they have trespassed, or wherewith their fathers trespassed, or their fathers’ fathers.”¹⁸³

In essence, among both individuals and nations, the revelation permits retribution and violence but only after multiple trespasses and only if the assailant has failed to seek forgiveness. In the case of nations, a special commandment from the Lord must be obtained for Zion to declare war, even if provoked. The revelation is interesting not least because it provides a multiplicity of responses that Mormons can take toward violence, with forgiveness as the highest or most virtuous response. Mormonism’s theology of resistance is therefore somewhere between pacifism and just war. It theoretically allows room for both those who would choose a consistent pacifist approach and those who would prefer self-defense, self-preservation, and even retribution after repeated abuse. And, thus, the creation

¹⁸³ Ibid.

of the Camp of Israel for purposes of self-defense was precipitated by doctrinal developments.

The Camp of Israel Arrives in Missouri

After the Mormon army mobilized and embarked on its mission, it did not take long for non-Mormons to notice what the Mormons were doing. On April 29, 1834, the postmaster in Chagrin, Ohio, penned a letter to the postmaster in Independence, Missouri with the following warning: “the *mormons* in this region are organizing an *army* (as they are pleased to express themselves) ‘to *restore Zion*,’ -- that is, to take *by force of arms* their former possessions in Jackson county Mo,” and that the army numbered from 200 to 600 and was headed by Joseph Smith himself.¹⁸⁴ On June 11, the *Missouri Enquirer* (based out of Liberty, Missouri) warned that “For the last six or eight weeks, the Mormons have been actively engaged in making preparations to return to Jackson count[y] ‘to the land of promise,’ by providing themselves with implements of war, such as guns, pistols, swords, &c. &c.” Moreover, the editors reported, not only do “They expect a reinforcement from the State of Ohio,” which was already beginning to arrive, but they also “intend to call upon the governor to reinstate them upon their lands in Jackson.” Yet the citizens of Jackson County, “are no less engaged in making preparation for their reception,” the editors concluded.¹⁸⁵

On April 24, 1834, the Mormons wrote to Governor Dunklin to tell him about the Camp of Israel. They explained that the Camp of Israel was coming specifically to help reinstate them in Jackson County and to supplement the executive’s military aid.

¹⁸⁴ Printed in the *Missouri Intelligencer*, June 7, 1834.

¹⁸⁵ *Ibid.*

“[I]nasmuch as the Executive of this State cannot keep up a material force ‘to protect our people in that County, without transcending his powers,’” they reminded him, “We want, therefore, the privilege of defending ourselves and the Constitution of our Country.”

“Whenever they [the Camp of Israel] do arrive,” they continued, “it would be the wish of our people in this county, to return to our homes, in company with our friends, under guard; and when once in legal possession of our homes in Jackson county, we shall endeavor to take care of them, without further wearying the patience of our worthy chief magistrate.”

Their plan was effectively to have the state militia help march them back to their lands, after which the Mormon militia would remain with the Missouri Saints for their protection.

However, they assured the governor that “our object is purely to defend ourselves and Possessions against another outrageous attack from the mob,” and that if the executive were to agree to help them it would be for “a people whose respect and veneration of the laws of the our country, and its pure republican principles are as great as that of any other society in these United States.”¹⁸⁶

Dunklin responded to the Saints letter on May 2, but he did not address their primary inquiry concerning help in returning to their lands. Instead, he told them he had “issued an order to Colonel Lucas to deliver them” the confiscated firearms they had asked for. Just when the Saints began to take seriously Dunklin’s earlier offer to help escort them back to their lands – as they had now procured their own source of military protection – Dunklin became skittish.¹⁸⁷ On June 5, as the Camp of Israel was nearing, the Mormon leader, A. S. Gilbert, wrote to Dunklin again regarding his promise to provide them military aid. “We think the time is just at hand when our society will be glad to avail themselves of

¹⁸⁶ A.S. Gilbert et al. letter to Daniel Dunklin, April 24, 1834, W. W. Phelps Collection.

¹⁸⁷ Daniel Dunklin letter to W. W. Phelps, May 2, 1834, W. W. Phelps Collection.

the Protection of the military guard, that they may return to Jackson Co.," he began. To that end, he asked the governor to furnish them with "an order, on the Commanding officer" to be sent by return mail so "we might have it in our hands to Present when our People were ready to Start."¹⁸⁸ Dunklin did not respond to the letter.

As the Camp of Israel was approaching upper Missouri and with no word from the governor, the Mormon leaders, Parley P. Pratt and Orson Hyde, were dispatched to seek out the governor directly in Jefferson City. Pratt later wrote that they were charged with asking the governor for "a sufficient military force, with orders to reinstate the exiles, and protect them in the possession of their homes in Jackson County." Although the governor "acknowledged the justice of the demand," Pratt reported of the conversation, "he dare not attempt the execution of the laws in that respect, for fear of deluging the whole country in civil war and bloodshed." Rather, he encouraged the Saints to "relinquish our rights, for the sake of peace, and to sell our lands from which we had been driven." In Dunklin's view, he was averting a catastrophe, but in Pratt's estimation, the governor would "dare not carry out the plain, acknowledged and imperative duties of his office." "That poor coward ought, in duty, to resign," Pratt bitterly stated, "he owes this, morally at least, in justice to his oath of office."¹⁸⁹ Pratt and Hyde returned to the camp and reported the inauspicious results of the meeting to their leaders on Sunday, June 15.¹⁹⁰

On June 6, Dunklin responded to a letter sent by Colonel John Thornton of Clay County regarding "the subject of the Mormon difficulties." Thornton was one of Clay County's distinguished citizens. After having been admitted to the bar, he served in the

¹⁸⁸ A. S. Gilbert letter to Daniel Dunklin, June 5, 1834, W. W. Phelps Collection.

¹⁸⁹ Parley P. Pratt, *Autobiography of Parley P. Pratt (1807–1857)*, ch. 15.

¹⁹⁰ HC, 2:94.

Missouri House of Representatives from 1824 through 1832, serving as the Speaker of the House from 1828 through 1830. In 1834, he had become the Colonel of the Clay County militia.¹⁹¹ Dunklin's response to Thornton was largely consistent with what he had told Pratt and Hyde regarding his desire that the Mormons sell their lands and reach a compromise though, in his letter to Thornton, he appeared much more sanguine about enforcing the law if necessary. Thornton had written to the governor asking if he would be willing to oversee mediation between the Mormons and the Jackson County citizens. Although Dunklin was in favor of the two sides reaching a compromise through mediation, he did not believe it was within his power to oversee the proceedings personally. Rather than involve himself directly, he appointed Thornton as "an aid to the commander-in-chief." In this way, Thornton could "give your propositions all the influence they would have were they to emanate from the executive," the governor explained, "without committing yourself or the commander-in-chief, in the event of failure."¹⁹²

The governor's position on the compromise was first that the Mormons should agree to sell their lands off and move somewhere else where they could live in peace, provided that they could get a fair price for them as well as reasonable damages for their injuries. Second, in the alternative, he would ask the Jackson County citizens to "rescind their illegal resolves of last summer, and agree to conform to the laws in every particular, in respect to the Mormons." Third, he would implement Thornton's plan that each party take a separate territory within Jackson County, and that each party confine its members to that territory. If all of those options failed, "then the simple question of legal right would have to

¹⁹¹ See <http://www.josephsmithpapers.org/person/john-thornton> for additional biographical information.

¹⁹² *Missouri Intelligencer*, July 5, 1834. Also available in the *Times and Seasons*, January 1, 1846, 1077-78.

settle it.”¹⁹³ Put another way, if negotiations failed, Dunklin felt it his duty to enforce the law, which lay on the side of the Mormons. And Dunklin did not feel that he could play the role of both enforcer of the law and mediator. Dunklin then proceeded to make a strong case as to why the Mormons’ constitutional rights had been violated, and that their religion was the primary basis for which they were persecuted. His words here are worth quoting at length.

A more clear and indisputable right does not exist, than that of the Mormon people, who were expelled from their homes in Jackson county, to return and live on their lands; and if they cannot be persuaded, as a matter of POLICY, to give up that right, or to qualify it, my course, as the chief executive officer of the state, is a plain one. -- The constitution of the United States declares, "That the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." Then we cannot interdict any people, who have a political franchise in the United States, from immigrating to this state, nor from choosing *what part* of the state they will settle in, provided they do not trespass on the property of others. Our state constitution declares that the people's "right to bear arms, *in defence of themselves*, and of the state, cannot be questioned." Then it is their constitutional right to arm themselves. Indeed, our militia law makes it the duty of every man, not exempted by law, between the ages of eighteen and forty-five, to arm himself with a musket, rifle, or some firelock, with a certain quantity of ammunition, &c. And again, our constitution says, "that all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences." I am fully persuaded that the eccentricity of the religious opinions and practices of the Mormons, is at the bottom of the outrages committed against them. They have the right constitutionally guaranteed to them, and it is indefeasible, to [the] Living God, and to call their habitation Zion, the Holy Land, or even Heaven itself. Indeed, there is nothing so absurd or ridiculous, that they have not a right to adopt as their religion, so that in its exercise they do not interfere with the rights of others.¹⁹⁴

Yet despite Governor Dunklin’s clear understanding regarding religious liberty law, the harms that the Mormons had experienced, and his duty to ultimately enforce the law, whenever he was actually petitioned to do the latter, he shrank from doing so—as Phelps, Gilbert, Hyde, Pratt, and others had all found out. This was likely because, as he would later

¹⁹³ Ibid.

¹⁹⁴ Ibid.

reveal to the Mormons, his respect for the popular will of the majority was far greater than that of the rule of law. Moreover, Dunklin's purpose in writing was to assure the colonel that he was carrying out his duties responsibly. Thus, his words to Thornton were likely more of a political maneuver than a measure of his actual intent.

Quest for Compromise

Deeply concerned about the impending conflict between the Mormons and residents of Jackson County, Judge John F. Ryland¹⁹⁵ wrote to the Saints on June 10 asking for them to attend a meeting in Liberty, Clay County on Monday, June 16 to “restore peace” between the two groups.¹⁹⁶ The Mormons replied to the missive on June 14 expressing both their desire to attend the meeting and their thanks for Ryland's desire to attempt a peaceful resolution. Yet they also explained to him that “a sale of our lands in Jackson county,” as a stipulation in the negotiations, “could not possibly be acceded to by our society.” “Home is home,” the Mormons declared, and they were not willing to give up the “possession of our homes, from which we have been wickedly expelled, and those rights which belong to us as native freeborn citizens of the United States.”¹⁹⁷

On June 16, 1834, between 800 and 1000 Mormons arrived at the courthouse in Liberty, pursuant to Judge Ryland's request. The local paper, the *Liberty Enquirer*, related that Ryland addressed the two parties “in an impressive and forcible manner.” He warned them

¹⁹⁵ John F. Ryland was the judge of the Missouri Sixth Judicial Circuit. For more on Ryland's initial dealings with the Saints in Jackson County see Chapter 3 at 49, 54, 57.

¹⁹⁶ John F. Ryland letter to A. S. Gilbert, June 10, 1834, W. W. Phelps Collection.

¹⁹⁷ John Corrill and A. S. Gilbert letter to John F. Ryland, June 14, 1834, W. W. Phelps Collection; see also *Times and Seasons*, January 15, 1846, 1088–89.

of the destructive consequences that would occur if the two groups could not find a resolution. Ryland feared that if the Mormons attacked Jackson County and took back their lands, that the adjoining counties would come to the aid of the settlers and that war would break out.¹⁹⁸

After Ryland finished speaking, a representative from Jackson County delivered a document entitled, “Propositions of the People of Jackson County to the Mormons.” In it, the undersigned committee, having been authorized by the people of Jackson County, offered first to buyout the Mormon lands. The general terms were as follows: the settlers would pay for the Mormon lands along with any improvements they had made on the land before the conflict. The value of the land and improvements would be determined by “three disinterested arbitrators to be chosen and agreed to by both parties.” The value of the land and improvements would then receive “*one hundred percent added thereon,*” most likely to pay for the Mormon injuries that resulted from the expulsion. In return, the Mormons would agree “not to make any effort, ever after, to settle, either collectively or individually, within the limits of Jackson county.” In the alternative, the settlers offered to sell all their lands and improvements to the Mormons, the value of which would again be determined by disinterested arbitrators.¹⁹⁹

The Saints’ initial response was that they needed to seek the counsel of their leaders in Kirtland before making any decision. They agreed, however, to offer their response to the settlers within the next week. They also explained that “peace is what we desire,” and assured the settlers, “that we will not, and neither have designed, as a people, to commence

¹⁹⁸ *Missouri Intelligencer*, June 28, 1834 (originally printed in the *Liberty Enquirer*).

¹⁹⁹ See the *Missouri Intelligencer*, June 28, 1834 (originally printed in the *Liberty Enquirer*). It was also printed in the *Times and Seasons*, January 15, 1846, 1089–90.

hostilities against the aforesaid citizens of Jackson county or any other people.” Moreover, the Saints agreed to “use our influence immediately to prevent said company [the Camp of Israel] from entering into Jackson county, until you shall receive an answer to the propositions afore named.”²⁰⁰ The Saints felt that although the settlers’ offer appeared generous on its face, “they were only making a sham to cover their previous unlawful conduct,” as the Mormons were still destitute from having lost their lands, improvements, and many of their possessions in Jackson County, and could not afford to buy out the settlers.²⁰¹

On June 21, 1834, the Saints officially responded and informed the settlers that they could not accede to their original proposition. Yet the Saints were still “unanimously disposed to make every sacrifice for an honorable adjustment of our differences.” They also assured the them that the Mormons had no intention of invading their territory.²⁰² On the same day, the Mormons also made public their own proposition to the settlers. Again, they informed the citizens of Jackson County that they had no intention of invading Jackson County, however, it was their intention “to go back upon our lands in Jackson, by order of the Executive of the State, if possible.” The Mormons contended that they were merely armed for the purpose of self-defense, given the abuses they had recently suffered. The Mormons’ counteroffer to the settlers was as follows: Rather than buying out all of the citizens of Jackson County, they would buy out only those who explicitly could not live with the Mormons. They would provide for twelve disinterested men (six chosen by each party) to assess the value of the land, as well as the value of the injuries done to the Mormons. In

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² *Times and Seasons*, January 15, 1846, 1092.

the alternative, the Mormons suggested that if all the settlers were willing to remain in the county, they would “never molest them if they will let us alone and permit us to enjoy our rights.” “We want peace with all men, and equal rights is all we ask,” stated. Ultimately, the Mormons were in search of a nonviolent solution to the problem, and would only resort to “[t]he shedding of blood,” if “all just and honorable means among men prove insufficient to restore peace.”²⁰³

Despite the two parties attempts at compromise, neither side accepted the other’s propositions. This did not mean, however, that the Camp of Israel would enter Jackson County. In late June of 1834, a wave of cholera broke out in Clay County. The Cholera epidemic especially ravaged the Camp of Israel, infecting many church members (including Joseph Smith), and leaving 17 church members dead in the months of June and July (including A. S. Gilbert).²⁰⁴ The cholera outbreak resulted not only in casualties, but also in the frustration of the Mormon attempt to regain their lands in Jackson County through by force.

On June 22, 1834, the Saints learned through a revelation that they would first have to “wait for a little season for the redemption of Zion,” due to the disunity and disobedience among the church members. Second, that Zion could not be redeemed until “mine elders are endowed with power from on high” – a religious ceremony that was to later take place after the construction of the Mormon temple. Third, Zion was not to be obtained through the use of violence: “For behold, I do not require at their hands to fight the battles of Zion; for, as I said in a former commandment, even so will I fulfil—I will fight your battles.” Fourth, the

²⁰³ *Missouri Intelligencer*, July 12, 1834 (originally printed in the *Liberty Enquirer*).

²⁰⁴ See Whitmer, *History*, 76 n. 236. See also *Missouri Intelligencer*, July 12, 1834 (originally published in the *Liberty Enquirer*).

revelation commanded as many of those from the Camp of Israel “that can stay in the region round about let them stay,” and for those that had family remaining in the east to only “tarry for a little season.” Lastly, it counseled the Saints in Missouri to “carefully gather together, as much in one region as can be possible . . . until the army of Israel becomes very great.”²⁰⁵

This last part of the revelation is important because it essentially counseled the Saints to continue to grow their numbers in Missouri, presumably so that they might have the manpower to return to Jackson County on their own in the future. But for now, they would return to seeking justice through the law.

Although the goals of the Camp of Israel were temporarily frustrated and the Mormons themselves were no longer interested in initiating combat for the time being, they still held out hope that the governor or the president could help them achieve justice and continued to actively petition them from 1834 through 1836. The Saints wrote to Dunklin on June 26, 1834 explaining that while they were committed to returning to their lands in Jackson “at all lengths that could be required by human or even divine law,” they were also willing to “make great sacrifices” to do so peacefully. They thought it wise to “defer petitioning for a guard, while there exists a hope of compromise,” and to petition President Jackson again, who could “render us assistance in obtaining possession of our lands, if aided by the Executive of this state in a petition.”²⁰⁶

In a letter sent on August 1, the Saints reminded Dunklin of his promise to “guard us into Jackson, Whenever we Said we were prepared to go,” and that they were not yielding any of their rights despite their temporary conclusion to “cease for a while from the idea of

²⁰⁵ Doctrine and Covenants Section 105.

²⁰⁶ A. S. Gilbert et al. letter to Daniel Dunklin, June 26, 1834, W. W. Phelps Collection.

returning to their land” due to the threat of bloodshed and civil war.²⁰⁷ On September 10, however, the Saints warned Dunklin that the mob had “spread” and had organized itself with “a commander-in-chief.” They again prodded Dunklin to “use all honorable means to restore this body of citizens to all the Constitutional enjoyments and rights.”²⁰⁸ And they cited to recent anti-abolitionist riots that had been put down in New York by the militia, and asked the governor to do the same.

Yet despite their continued pleas and their argument that the governor had every right to petition the president for help to enforce the law, Dunklin did not respond to the letter. They sent an additional letter on December 30, 1835 asking for the governor’s involvement again. Dunklin finally responded to their multiple petitions on January 22, 1836.²⁰⁹ In the penultimate letter he ever wrote to the Saints, Dunklin told them that his opinion on their grievances had “undergone no change.” Because “you cannot make a case of invasion *or* insurrection of the outrages committed on your persons or property in Jackson county, it would be idle to address the President of the United States” he concluded.²¹⁰ However, as already discussed in Chapter 2, it is difficult to see how the actions of the citizens of Jackson County did not amount to an insurrection,²¹¹ especially

²⁰⁷ W. W. Phelps letter to Daniel Dunklin, August 1, 1834, W. W. Phelps Collection.

²⁰⁸ Petition to Daniel Dunklin, September 10, 1835, W. W. Phelps Collection.

²⁰⁹ W. W. Phelps letter to Daniel Dunklin, December 30, 1835, W. W. Phelps Collection.

²¹⁰ Daniel Dunklin letter to W. W. Phelps et al., January 22, 1836, W. W. Phelps Collection.

²¹¹ Webster’s dictionary from 1828 defines “insurrection” thusly:

A rising against civil or political authority; the open and active opposition of a number of persons to the execution of a law in a city or state. It is equivalent to sedition, except that sedition expresses a less extensive rising of citizens. It differs from rebellion, for the latter expresses a revolt, or an attempt to overthrow the government, to establish a different one or to place the country under another jurisdiction. It differs from mutiny, as it respects the civil or political government; whereas a mutiny is an open opposition to law in the army or navy. insurrection is however used with such latitude as to comprehend either sedition or rebellion.

given the failure of Judge Ryland to hold a court of inquiry there. The citizens of Jackson County were acting in persistent, open defiance of the law. Furthermore, Dunklin did not address the 1807 law that allowed for the intervention of the president “in all cases of insurrection, or obstruction of the laws.”²¹² If not an insurrection, the settlers’ actions were at least an obstruction of the law. Dunklin again demonstrated his unwillingness to interpret the law in any way that could help the Mormons return to Jackson County.

The Clay County Expulsion of 1836

Though tensions with the Jackson County residents over their expulsion continued after 1833, the Mormons enjoyed largely peaceable relations with their new neighbors in Clay County in 1834 and 1835. However, problems arose again in 1836 as Mormon emigration continued in the region apace and as they began to purchase land. Although Clay County was not technically the site of Zion, it became a temporary gathering place for the Mormons. As the revelation had instructed, the Saints in Clay County were to gather “as much in one region as can be possible . . . until the army of Israel becomes very great.”²¹³ John Corrill thought that the strife between the two groups returned “either because they hated our religion, or were afraid we would become a majority, or for some other cause, I know not what, (for the Mormons had committed no crime).”²¹⁴

See Noah Webster, *American Dictionary of the English Language*, 1828, available at: <http://webstersdictionary1828.com>

²¹² Daniel Dunklin to W.W. Phelps and others, July 18, 1836, W.W. Phelps Collection.

²¹³ Doctrine and Covenants Section 105.

²¹⁴ Corrill History, 159.

Corrill's sense of the cause of the tensions generally seems to have been the case yet he was not forthright about the Mormons' eventual goal to retake Zion, as some non-Mormons began to recognize. Liberty's newspaper, *The Far West*, reported that between 1500 and 2000 Mormons, "were arming and coming to upper Missouri" in a piecemeal fashion, and that they were planning "to take Zion." There was also worry that the Mormons were coming to take over political offices as they had allegedly already done in Kirtland, Ohio.

At the last advices from Kirtland, all the County Officers were filled with *Latter day saints*, and a petition has been forwarded to the Post Master General to *reform* the post master there and appoint in his place the notorious Oliver Cowdery, who has given his name an infamous notoriety by bearing public and unblushing testimony to the advent of an Angel."²¹⁵

One Clay County citizen, Anderson Wilson, also identified Mormon emigration and the religion itself as contributing to the problem. "They have been flocking in here faster than ever and making great talk what they would do," he stated. If the Mormons were to "outnumber us," as he believed was their plan, "Then they would rule the Contry [sic] at [their] pleasure," he continued. Wilson saw direct evidence of the Mormon intent to gain control in the county both because they appeared to be eagerly borrowing large amounts of money to buy up properties and because "They have got a revelation from Smith that they Shal have the Missouri By money or Blood."

Wilson also took issue with Mormon religious sensibilities: "They are Still going on in their usual way of lying, raising the dead, Casting out devils, Healing the sick etc. In this way they have Still been annoying us from day to day." Moreover, he feared the prospect of having "to Submit to a mormon government or trample under foot the laws of our Contry." There was also talk that the Saints had "spread their doctrines among the Savage Indians and

²¹⁵ "Another Mormon Invasion," *Daily Missouri Republican*, May 17, 1836 (originally printed in *The Far West*).

acknowledged them as Brethren who was to possess the land with them and that they were ready to Join them at any time.” Wilson stated that the community was at a loss about what to do about the Mormon problem. “We thought of fleeing. There was no place to flee to. We thought of fiting [fighting]. This was Cruel to fight a people who had not Broke the law & in this way we became excited.” Ultimately, many of the concerned non-Mormons in Clay County organized a vigilante force and began to both persecute the Mormons and to plan for their expulsion from the county.²¹⁶

As feelings against the Mormons began to increasingly turn sour once again, Edward Partridge reported that “In the summer of 1836 the mob party, in Clay co. strengthened itself considerably.” “In one or two instances,” he continued “[the Mob] began to whip the saints; and one day some sixty or seventy of them assembled, rode off a few miles east and stopped a few wagons, which were moving to Clay co., and turned them back.”²¹⁷ Andrew Wilson wrote about the incident. After having formed an extra-legal militia, some of the militia came upon some Mormon wagons emigrating to Clay County and turned them around. “Our officers tole them our declared intention and desired them to return and not go into Clay County & toale [sic] them if they did persist it was at their own risk. But they did not hesitate But turned around their wagons”²¹⁸ Commenting on the growing tensions, Partridge concluded that, given the return of the mob action in the county, it was clear that the mob intended to “drive them out of the county, if they could.” Yet “It was equally

²¹⁶ William Anderson to Samuel Turrentine, July 4, 1836, Clay County, Missouri in Durward T. Stokes “The Wilson Letters, 1835-49,” *Missouri Historical Review* 60 (July 1966): 504–08.

²¹⁷ A History, of Persecution, 228.

²¹⁸ William Anderson to Samuel Turrentine, July 4, 1836, Clay County Missouri in Durward T. Stokes “The Wilson Letters, 1835-49,” 507.

manifest,” Partridge averred, “that the saints were disposed to defend themselves against mobs, even unto the shedding of blood.”

Sensing the growing animosity between the two parties, several of the Clay County elites grew concerned over the looming potential conflict, and called for both the Mormons and the Clay County citizens to organize committees and to meet to discuss a resolution to the problem. The committees met at the courthouse in Liberty, Clay County, on June 29, 1836. Nine members of Clay County were chosen to represent the wishes of the county in drafting the resolution. The purpose of the resolution was to avert what to them was an imminent civil war. As the Clay County committee put it, “the clouds of civil war are rolling up their fearful masses and hanging over our devoted county, solemn, dark and terrible.”²¹⁹

The committee gave several reasons for the growing tensions. First, the tensions were primarily the result of “the rapid and increasing immigration, of that people, commonly called Mormons.” The committee recognized that the Mormons had been refugees after being forced out of their homes in 1833. And though the citizens of Clay County had gracefully taken them in and disregarded the rumors concerning them (they maintained), the original and mutual understanding was that the Mormon asylum in Clay County was to be temporary: “They always declared that they looked not upon this county as their home, but as a temporary asylum, and that whenever a respectable portion of the citizens of this county, should request it, they would promptly leave us in peace as they found us. – That period has now arrived.” Second, many of the Mormons’ actions served as “strong & convincing proofs” that they meant to violate that pledge: namely, “Their rapid emigration, their large purchases and offers to purchase lands, the remarks of the ignorant and

²¹⁹ “Public Meeting,” *LDS Messenger and the Advocate*, Kirtland, Ohio, August, 1836.

imprudent portion of them, [and their claim] that this country is destined by heaven to be theirs.” Lastly, they argued that the Saints’ cultural differences and theological views concerning the Native Americans inspired the prejudices of their neighbors:

They are Eastern men, whose manners, habits, customs and even dialect, are essentially different from our own; they are non-slave holders, and opposed to slavery; which, in this peculiar period, when abolition has reared its deformed and haggard visage in our land, is well calculated to excite deep and abiding prejudices in any community, where slavery is tolerated and practiced. In addition to all this, they are charged, as they have heretofore been, with keeping up a constant communication with the Indian tribes on our frontier, with declaring, even from the pulpit, that the Indians are a part of God's chosen people, and are destined, by heaven, to inherit this land, in common with themselves.

While the members of the committee did not vouch for the veracity of the claims levied against the Mormons, they argued that these issues had enraged the populace all the same. And given what they saw as a very real potential for the outbreak of civil war, they felt it necessary to find a way to defuse the situation. They thus called on the Mormons to immediately cease all emigration to the county, and to begin to relocate elsewhere. The committee pressured them “to seek some other abiding place, where the manners, the habits and customs of the people will be more consonant with their own.” “The religious tenets of this people are so different from the present churches of the age, that they always have and always will, excite deep prejudices against them, in any populous country where they may locate.” At bottom, the committee was asking, in what they saw as a kind way, for the Saints to completely leave the county as a means of obviating the risk of bloodshed. Again, the committee was operating under an assumption that unwanted religious minorities had a right and a duty to emigrate.²²⁰

²²⁰ See Witte and Nichols, *Religion and the Constitutional Experiment*, 107–09.

Interestingly, unlike the citizens of Jackson County, the citizens of Clay County conceded that they did not “have the least right, under the constitution and laws of the country, to expel” the Mormons by force, but that they asked them “to take the least of two evils,” by agreeing to leave themselves. If the Mormons did agree to leave, however, the committee promised to do their best to mollify the mob, and help the Mormons to make their journey safely. In addition, they were willing to give the Mormons who had purchased property time to gather their crops and to sell their lands for a fair price before leaving.²²¹ Despite the kind nature of the proposition and the obvious interest that the committee had in the well-being of the Mormons, the drafters of the proposition tacitly accepted the fact that the rule of law, either due to unwillingness or inability, would become inoperative if they decided to stay. It was also a tacit admission that minority rights could not be protected against the will of the majority.

Notwithstanding Clay County citizens’ desire for nonviolence and affable tone, the Mormons knew that they were being asked to sacrifice their rights for the peace. The leaders of the Church in Kirtland, Ohio, penned a letter addressed to Colonel Thornton and the others on the committee on July 25, 1836. While the Mormon leaders thanked the committee for its candor and for its desire to avert war, they rejected many of the accusations made against them. First, they rejected the idea that they believed or were teaching that they would possess “the upper country” of Missouri at any cost – by money or blood. “There is nothing in all our religious faith to warrant it, but to the contrary, the most strict injunctions to live in obedience to the laws, and follow peace with all men,” they averred. As evidence of this, they suggested that instead of fighting for their rights in Jackson

²²¹ “Public Meeting,” *LDS Messenger and the Advocate*, Kirtland, Ohio, August, 1836.

County by force, they were waiting to receive redress through the law.²²² The Mormons in Jackson could have resorted to the same barbarous means as their neighbors did, however, they did not. Second, they took issue with the claim that the Mormons were abolitionists. They referred the Missourians to a recently published article in the Mormon paper, the *LDS Messenger and Advocate*, where they laid out their position on the issue of slavery. The article argued, in relevant part, that “the people of the north have no legal right to interfere with the property of the south, neither have they a right to say they shall, or shall not, hold slaves.” However, the article did imply that the Mormons did not see the practice of slavery as a righteous one.²²³ Third, they also contested the accuracy of the claims regarding the

²²² This point was largely true. The Mormons had withdrawn their military forces from the area, and were yet awaiting help from the state and local government, as well as the result of civil cases filed in Jackson County. None of these avenues, however, were successful. For more on this see Chapter 2. The Mormons, however, did intend to congregate in the areas around Jackson County to build up an army big enough to take back their rights if the legal measures failed. See Doctrine and Covenants Section 105, especially verses 28–34:

For it is my will that these lands should be purchased; and after they are purchased that my saints should possess them according to the laws of consecration which I have given. And after these lands are purchased, I will hold the armies of Israel guiltless in taking possession of their own lands, which they have previously purchased with their moneys, and of throwing down the towers of mine enemies that may be upon them, and scattering their watchmen, and avenging me of mine enemies unto the third and fourth generation of them that hate me. But first let my army become very great, and let it be sanctified before me, that it may become fair as the sun, and clear as the moon, and that her banners may be terrible unto all nations; That the kingdoms of this world may be constrained to acknowledge that the kingdom of Zion is in very deed the kingdom of our God and his Christ; therefore, let us become subject unto her laws. Verily I say unto you, it is expedient in me that the first elders of my church should receive their endowment from on high in my house, which I have commanded to be built unto my name in the land of Kirtland. And let those commandments which I have given concerning Zion and her law be executed and fulfilled, after her redemption.

²²³ “The Abolitionists,” in *LDS Messenger and Advocate*, Kirtland, Ohio, April 1836.

Mormons' relationship with the Native Americans²²⁴ and their supposed intention to make Clay County their gathering place.²²⁵

Ultimately, however, the Saints intention was not “to dissuade you from acting in strict conformity with your preamble and resolutions.” Rather, they advised the Saints in Missouri to agree to the terms of the committee’s proposition, and to not resort to self-defense except in “*extreme* cases,” and that they should not “shed the blood of men, or commit one act to endanger the public peace.” Still, the Mormons argued that they were trading in their constitutional rights and privileges for peace:

we hope, gentlemen, that while you reflect upon the fact, that the citizens of Clay county are urgent for our friends to leave you, that you will also bear in mind, that by their complying with your request to leave, is surrendering some of the dearest rights and first, among those inherent principles, guaranteed in the constitution of our country; and that human nature can be driven to a certain extent, when it will yield no farther.²²⁶

The latter sentence was doubtless prescient of the later conflict to come in 1838 when the Mormons officially accepted violence as a proper response to any attempt to drive them from their lands.²²⁷ The Mormons were willing to comply with the friendly demands of the Clay County citizens, but it would be the last time the Mormons would leave a county in Missouri peacefully.

Along with the letter to the Clay County committee, the Mormon leaders in Kirtland also wrote to the Mormon leaders in Missouri on the same date, counseling them to accept

²²⁴ The Mormon revelations did maintain that the Lamanites were to help in the building of the city of Zion. See, e.g., 3 Nephi 21:23–24. “And they shall assist my people, the remnant of Jacob, and also as many of the house of Israel as shall come, that they may build a city, which shall be called the New Jerusalem. And then shall they assist my people that they may be gathered in, who are scattered upon all the face of the land, in unto the New Jerusalem.”

²²⁵ “Public Meeting,” *LDS Messenger and the Advocate*, Kirtland, Ohio, August, 1836.

²²⁶ *Ibid.*

²²⁷ See Chapter 4 at 103–106.

the terms of the proposition and to leave the county in peace. Lastly, they instructed their brethren to “stand by the constitution of your country, observe its principles, and above all, show yourselves men of God, [and] worthy citizens.”

On July 1, 1836, the Missouri Mormon leaders met with citizens of Clay County and read their answer to the petition. In their response, they thanked the Clay County residents for their kindness to them, rejected what they saw as many false claims made against them²²⁸ (as the Kirtland leadership had), and agreed to the terms of the initial proposal to move their people and to cease the emigration to the county. They also agreed to allow the Clay County citizens to help them find a new place to live. In response, the Clay committee found the Mormon resolutions to be “perfectly satisfactory.”

Mormon Relocation and the Creation of Caldwell County

Although the Clay citizens offered to help the Mormons find a place to settle, the Saints had already selected a location a short time before the meeting, and had purchased about 1600 acres northeast of Clay County near Shoal Creek. However, before settling there, they wanted to do their best to assure they would not buy more land only to be expelled again soon. To that end, church leaders attempted to placate future tensions through two means: first by writing to the governor for help in establishing them in their new lands near Shoal Creek; and second, by getting the consent of Ray County, which at the time had jurisdiction over the area.

²²⁸ Interestingly they commented that they “denied having claim to this or any other county or country further than we purchase with money, or more than the constitution and laws allow us as free American citizens.” In “Public Meeting,” 360.

The Saints wrote to Governor Dunklin on July 7, 1836 telling him that they had again been forced to leave Clay County despite not having committed a single crime there. They lamented of the fact that “Law, or government, seems to have but little or no remedy for us,” and “Our numbers are insufficient to protect ourselves, and we are driven and oppressed beyond measure.” They also told the governor that they had purchased land north of Ray County, but due to their fear of mobs forming (in addition to those in Jackson and Clay counties), they petitioned him to “quell these mobs and help us to obtain a location.”²²⁹

In short, the Saints plea was prophylactic: they wanted the governor’s support before tensions rose and mob action broke out. In spite of the prophylactic nature of the Mormons’ request, the governor was not prepared to help the Saints in advance, just as he had been leery of intervening in the summer of 1833.²³⁰ Although in times past, he had seemed willing to help them in the aftermath of extra-legal violence, he was not willing, as the executive, to play any preventative, military role in local conflicts. The Saints’ request drew out of him his commitment to the doctrine of popular sovereignty and local control.

He opened his letter by expressing his “sympathy” for the poor treatment that the Mormons had received in Missouri, but concluded that their problems were not to be addressed by the executive but by the judiciary, as they dealt with cases of “individual wrongs.” Yet this time he also conceded that the justice of the courts could be rendered “nugatory, in endeavoring to afford a remedy,” when the popular will was insufficient. In these instances, he argued, “Public sentiment may become paramount law; and when one man or society of men become so obnoxious to that sentiment as to determine the people to

²²⁹ W.W. Phelps et al. Letter to Governor Daniel Dunklin, July 7, 1836, W.W. Phelps Collection.

²³⁰ See Chapter 2 at pgs. 44 –45.

be rid of him or them, it is useless to run counter to it.” Such had been the case in Clay County, he continued, due to the charges that the Mormons were opposed to slavery and were holding “illicit communications with the Indians.” While he did not comment on whether the allegations were true, he concluded that irrespective of their veracity, the result was the same: that the majority of the people wanted them out. The job of the Saints was to convince the majority otherwise. But if they could not do this, he concluded: “all I can say to you is that in this Republic the *vox populi* is the *vox Dei*.”²³¹ In Dunklin’s view, rule of law and individual rights were subject to the majority.

In addition to their unsuccessful plea to the governor, the Mormon leaders sent John Corrill and John Murdock to speak with the residents of Ray County before moving their people there. The Ray County newspaper, *The Far West*, reported the visit by the Mormons on July 23, 1836. According to the paper, Corrill spoke before a meeting of citizens at the courthouse, and explained that the Mormons’ purpose was to procure “a resting place from persecution and to procure a home”; and he assured the settlers, “that they had no intention of breaking, but of supporting the laws, and pledged himself that they would do so.” After some discussion, the Ray County committee unanimously approved the Mormon settlement at Shoal Creek so long as the Mormons agreed to settle within six to eight miles of the northern boundary of Ray County.²³²

With the consent of Ray County, the Mormons began to prepare for and then move to the Shoal Creek area, and the hostility in the county subsided and violence was obviated.²³³ The Saints began to settle in their new location in August of 1836 where they

²³¹ Daniel Dunklin, Letter to W.W. Phelps et al., July 18, 1836, W. W. Phelps Collection.

²³² “Public Meeting,” *The Far West*, Liberty, Missouri, Thursday, August 25, 1836.

²³³ A History, of Persecution, 229.

quickly began to make improvements on the land. Within a few months, the Saints had purchased much of the surrounding area (which would soon become Caldwell County), and the fifteen or twenty non-Mormon families who already lived in the area “sold out and moved away.”²³⁴ The Saints petitioned the Missouri legislature to create a separate county for them consisting of the territory north of Ray County. Clay County resident and friend of the Saints, Alexander Doniphan, presented the Saints’ request before the House of Representatives on November 29, 1836. On December 29, the Missouri’s General Assembly passed an act to incorporate Caldwell and Daviess counties.²³⁵ As a condition for being granted their own county, there is evidence that the Mormons had verbally agreed to staying exclusively within Caldwell County or at the very least that this was the understanding of many non-Mormons. Yet there was nothing in the language of the statute suggesting that Caldwell County was only for Mormons, or that Mormons could not settle in Daviess County.²³⁶

Conclusion

The Mormon experience in Clay County from 1834 to 1836 demonstrates the important role that the Mormon concept of Zion continued to play in the conflicts in Missouri. Despite being removed from Zion in 1833, the Mormons made continual plans to

²³⁴ *Ibid.*, 230. It is important to note that from this page onward in the transcript, Edward Partridge is no longer the author, and the authorship of this part of the history remains unknown.

²³⁵ *Laws of the State of Missouri, 1836*, 46-47.

²³⁶ For the best treatment on the establishment of Caldwell County see Leland H. Gentry and Todd M. Compton, *Fire and the Sword: A History of the Latter-Day Saints in Northern Missouri, 1836–39* (Salt Lake City, UT: Greg Kofford Books, 2011), 23–41.

retake their properties in Jackson County. Their first method of recourse was always to petition the executives of both the state and federal governments, which they did repeatedly, albeit unsuccessfully, throughout the period. Yet a developing theology of self-defense and civil disobedience pushed the Saints to experiment with taking the law into their own hands. The first use of this theology came with the Mormon creation of the Camp of Israel, which sought to help the Saints in Missouri defend their rights and to use violence if necessary. The efforts of the Camp of Israel failed, however, both due to Governor Dunklin's unwillingness to support them and to an outbreak of disease within the camp. The result was that the Mormons continued to emigrate to Clay County in 1835 and 1836, not with the hopes of settling their permanently, but to become strong enough to eventually obtain their rights, with or without the help of the government. Their growing numbers, however, again frightened the citizens of Clay County and vigilante groups began to form. In particular, as in Jackson County before, many people in Clay County feared that the Mormons might gain a political majority and use that majority to impose their religious views on others in society.²³⁷ However, rather than risk the threat of violence in Clay County, the Mormons agreed to leave and settle in an unincorporated area of Ray County, which eventually led to the creation of Caldwell County in late 1836.

The Clay County story also again demonstrates the futility of appeals to religious liberty when the local and state government were unwilling or unable to enforce the law. Moreover, while the Mormons were willing to leave Clay County in peace, they did so without losing the hope in eventually returning to Jackson County. However, when the storms of persecution and violence began to form in Caldwell County in 1838, the story

²³⁷ See especially pg. 85.

would be different, as the Mormons increasingly began to see their hopes of repossessing Zion slip away. While there is no room in this thesis for a full history of the so-called 1838 Mormon War, the concluding chapter will offer a summary of this conflict as well as reflections on the Missouri-Mormon conflicts more generally.

Chapter 4:

The 1838 Mormon War and Conclusion

Tensions Leading up to the Conflict

The Mormon experience in Missouri in 1837 and early 1838 was largely peaceful, as the Saints primarily settled in Caldwell County and began to work industriously in improving their lands. Of that time, John Corrill could recall that “Friendship began to be restored between them and their neighbors, the old prejudices were fast dying away, and they were doing well, until the summer of 1838.”²³⁸ Yet gray clouds were still on the horizon as the Mormons were intent on gathering in Missouri and returning to Zion.

In the summer of 1838, relations between the Saints and Missourians reached a fever pitch for several reasons—all of which involved the doctrine of Zion. First, financial problems, dissention, and persecution in Kirtland, Ohio (the Church’s primary headquarters at the time) spurred a huge increase of Mormon emigration to upper Missouri in the spring of 1838, including the emigration of Joseph Smith, Sidney Rigdon, and other Mormon leaders. The Kirtland Saints elected to come to Missouri because it was still the location of Zion for the Mormons. The large increase in numbers and crowding led some Mormons to begin to settle outside Caldwell County—a violation of the understanding that the Mormons would remain within its borders. Some Saints settled in a nearby town called De Witt located in Carroll County. Other members settled an area in Daviess County, which Joseph Smith named “Adam-ondi-Ahman” on May 18, 1838. Smith gave it the name because “it is the place where [the biblical] Adam shall come to visit his people.”²³⁹ Just as Smith had done in

²³⁸ Corrill History, 159.

²³⁹ *The Joseph Smith Papers Project Journals Volume 1: 1832–1839*, eds. Dean C. Jessee et al. (Salt Lake City: The Church Historian’s Press, 2008), 271.

Jackson County, he imbued Daviess County with spiritual meaning, which only intensified the Mormon desire to remain on their lands in upper Missouri.

Word traveled quickly that the Mormons had violated the agreement that the Saints would remain within the borders of their county. A committee of citizens from Carroll reported on August 7, 1838 that “it was distinctly understood, and expressly agreed upon by said Mormons and the other citizens of the upper part of the State of Missouri, that they might select a tract of country uninhabited, and locate themselves in peace, but they should not intrude upon the citizens of any of the adjoining counties.” In the Missourians’ view, the Mormons had “broken the covenant so by them made” when they began to buy lands and settle in Carroll County, and this justified their expulsion.²⁴⁰

Second, the Church suffered from problems of internal dissention and turmoil not only in Kirtland, Ohio, but also in Missouri, which was primarily over the doctrine of Zion. As was discussed in Chapter 2, the Mormon Church saw itself as attempting to build a religious and political kingdom where the Saints could live according to God’s law.²⁴¹ For a growing number of Mormons, the church leadership was exercising too much political, economic, and religious control over its members—something that non-Mormon Missourians were leery of as well. In stark contrast to the popular republican ideology of the day, the Mormon Church saw itself as the literal Kingdom of God on Earth, which began to worry some of the Mormon faithful.

In the spring of 1838, the Church excommunicated some of its most prominent members who had either broken commandments or had lost their faith in Joseph Smith or the movement. Oliver Cowdery—who had served not only as a scribe during the production

²⁴⁰ See “The Mormons in Carroll County,” *Daily Missouri Republican* August 18, 1838.

²⁴¹ See especially pgs. 15–16.

of the Book of Mormon but also as one of Joseph Smith’s closest advisors—was one such individual. Cowdery’s frustration with the Church centered on the fact that he refused to be “influenced, governed, or controlled, in [his] temporal interests by an ecclesiastical authority or pretended revelation” by some “real or supposed authority.” In a word, Cowdery’s deepest objections concerned the government of Zion:

The very principle of which I conceive to be couched in an attempt to set up a kind of petty government, controlled and dictated by ecclesiastical influence, in the midst of this National and State Government. You will, no doubt say this is not correct; but the bare notice of those charges, over which you assume a right to decide, is, in my opinion a direct attempt to make secular power subservient to Church dictation—to the correctness of which I cannot in conscience subscribe—I believe that principle never did fail to produce Anarchy & confusion.²⁴²

Oliver’s concerns that the Church was usurping authority reserved to the American government were common among many Mormon dissidents who began to criticize the Church using republican arguments.²⁴³ As a result, dissidents who disapproved of Mormonism’s theocratic leanings spread this information with other non-Mormons in northern Missouri.²⁴⁴

The Mormons proved that they were not afraid to threaten and expel their own members who had defected from the Church, which further darkened the Missourian perception of the Mormons. Many Mormons who had been declared apostates and who were excommunicated remained in Caldwell County and began to cause trouble for the leadership. John Corrill, who was serving as a Church historian at the time, remembered Joseph Smith and Sidney Rigdon complaining about the “ill treatment they had received

²⁴² Far West Minute Book 2, April 12, 1838, 117–22, available at: <http://josephsmithpapers.org/paperSummary/minute-book-2?p=1&highlight=Far%20West%20Records#!/paperSummary/minute-book-2&p=124>

²⁴³ Richard Bushman, *Joseph Smith: Rough Stone Rolling*, 346–49.

²⁴⁴ Alexander Baugh, *A Call to Arms* (Provo, UT: BYU Studies, 2000), 100.

from the dissenters and others” especially in the form of “vexatious lawsuits” and mob violence. They had borne persecutions since the beginning of the Church, and they were determined to bear them no longer. Moreover, they began to preach that in order to be in God’s favor, it was necessary for the Saints to “become one, and be perfectly united in all things.” And if the Mormons could “cleanse themselves from every kind of pollution, and keep the whole law of God,” Corrill remembered, “God would strengthen them against their enemies, his arm should be their arm . . . [and] one should be able to choose his thousand, and put their ten thousand to flight.”²⁴⁵

The Church, however, was far from achieving solidarity. Many individuals were disaffected and began to “speak against them [the First Presidency], influence the minds of the members against them, and occasionally correspond with their enemies abroad,” Corrill reported. Purification required the expulsion of the dissenters because “if they were suffered to remain, they would destroy the Church.” In response to these issues, Sidney Rigdon gave his so-called “salt sermon” in mid-June of 1838. “If the salt have lost its savour,” he thundered, “it is thenceforth good for nothing, but to be cast out and trodden under the feet of men,” “[A]nd although he did not call names in his sermon,” Corrill recalled, “it was plainly understood that he meant that dissenters, or those who had denied the faith, ought to be cast out and literally trodden under foot.”²⁴⁶

Soon after this incendiary sermon, a group of nearly 100 Mormon men in Caldwell County signed a document threatening some of the prominent dissenters in the community that they and their families must leave or “a more fatal calamity” would befall them. Corrill reported that the sermon had its “desired effect,” and several of the dissenters fled from

²⁴⁵ Corrill History, 164–165.

²⁴⁶ Ibid., 30. See also *Reed Peck’s Manuscript (1839)*.

Caldwell County with their families.²⁴⁷ It is not entirely clear how Mormon theology countenanced these grave actions and threats against dissidents, as they were clearly contrary to the laws of the state and emerging law of the church. Strangely, Reed Peck (a Mormon who later disaffected by the end of 1838) remembered Sydney Rigdon giving the following political and legal justification for the expulsion of the dissidents: “when a country, or body of people have individuals among them with whom they do not wish to associate and a public expression is taken against their remaining among them and such individuals do not remove it is the principle of republicanism itself that gives that community a right to expel them forcibly and no law will prevent it.”²⁴⁸ Although the implicit justification for the expulsion of the dissenters was the text of Matthew 5, Rigdon seemed to have also offered a justification for their actions that was rooted in a theory of popular sovereignty. Ironically, this is the very rationale that the Missourians relied on to force the Mormons from their homes in Jackson County.

Around the same time as the internal dissention was going on, a secret society of ultra-orthodox Mormons in upper Missouri known as the “Danites” formed to enforce the will of the leaders of the Church at any cost. The organization was led by a Mormon named Sampson Avard. John Corrill reported that the Danites “entered into a covenant that the words of the presidency should be obeyed, and no one should be suffered to raise his hand or voice against it.” Reed Peck, an original member of the Danites, reported that “All the principles of the Society tended to give the presidency unlimited power over the property, persons and I might say with propriety lives of the members of the church as physical force was to be resorted to if necessary to accomplish their designs.” Such obedience was even

²⁴⁷ Richard Bushman, *Rough Stone Rolling*, 350–51.

²⁴⁸ *Reed Peck's Manuscript (1839)*

thought to extend to violent commands. Peck remembered a fellow Danite telling him that “The blood of my best friend must flow by my own hands if I would be a faithful Danite should the prophet command it.”²⁴⁹ The exact teachings of the group remain mysterious, and the group’s exact relation to Smith and church hierarchy have been hotly contested.²⁵⁰ What is known is that the Danite were active in the efforts to expel dissident Mormons, and they were also organized as an extra-legal military force to defend the Mormons from mob attacks.

Third, the development and use of the Mormon theology of divine law, particularly with regard to self-defense and just war—which developed as a means of protecting Zion—also exacerbated conditions.²⁵¹ By the summer of 1838, the Mormon leaders had decided that they had endured enough persecution, and that if the mob were to attack them again, they would respond with violence.²⁵² On July 4, 1838, the Mormons hosted an Independence Day celebration in Far West, the capital of their new county. Sidney Rigdon, a member of the Church’s First Presidency and its most esteemed orator, spoke at the event and declared the following warning to their enemies.

Our cheeks have been given to the smiters, and our heads to those who have plucked off the hair. We have not only when smitten on one cheek turned the other, but we have done it, again and again, until we are wearied of being smitten, and tired of being trampled upon. We have proved the world with kindness; we have suffered their abuse without cause, with patience, and have endured without resentment, until this day, and still their persecutions and

²⁴⁹ Ibid., 55; see also Corrill History, 168.

²⁵⁰ Some scholars have argued that Joseph Smith not only knew about the teachings of the Danites, but that he actively supported and directed their efforts in some cases. See, e.g., Stephen C. LeSueur, “The Danites Reconsidered: Were They Vigilantes or Just the Mormons’ Version of the Elks Club?” *John Whitmer Historical Association Journal* 14 (1994): 37; cf. Dean C. Jessee and David J. Whittaker, “The Last Months of Mormonism in Missouri: The Albert Perry Rockwood Journal,” *BYU Studies* (Winter 1998): 5–41.

²⁵¹ See Chapter 3 for the development of the Mormon theology of resistance.

²⁵² Corrill History, 164.

violence does not cease. But from this day and this hour, we will suffer it no more.²⁵³

While not citing to Section 98 directly—the Mormon revelation that permitted self-defense and just war²⁵⁴—it is evident that Rigdon had the revelation in mind throughout his address. He seemed to be aware that for the Saints to be justified in fighting back, they first had to show that they had been innocently smitten at least three times.²⁵⁵ Rigdon also complied with Section 98 by providing a warning for their adversaries that if they were attacked again, they would fight back. “We warn all men in the name of Jesus Christ, to come on us no more forever, for from this hour, we will bear it no more, our rights shall no more be trampled on with impunity.” However, Rigdon’s rhetoric far exceeded any notion of mere self-defense. If the Mormons were attacked, “it shall be between us and them a war of extermination,” he declared. “For we will follow them, till the last drop of their blood is spilled,” he continued, “or else they will have to exterminate us: for we will carry the seat of war to their own houses, and their own families, and one party or the other shall be utterly destroyed.”²⁵⁶ The speech amounted to the threat of a full-scale war if the Mormons were attacked again, and it received the tacit endorsement of Joseph Smith. Not only was Smith present for the speech, but he had the speech printed and sent out for circulation.²⁵⁷

Also beneath the surface in Rigdon’s speech was the idea that the Mormons were not willing to leave Missouri—and thus Zion—peacefully. As Joseph Smith’s earlier revelations

²⁵³ Sidney Rigdon, July 4, 1838 Oration, available at: <http://www.sidneyrigdon.com/rigd1838.htm#pg12>

²⁵⁴ See Chapter 3

²⁵⁵ See Chapter 3 at pgs. 70–72.

²⁵⁶ Ibid.

²⁵⁷ Corrill History, 169 note 142. “The 4 July 1838 address was published by the church press as a booklet; it also appeared in a Liberty, Missouri, newspaper, the *Far West*.” The editors also note that “In an endorsement of Rigdon’s speech in the church periodical *Elders Journal*, JS [Joseph Smith] expressed similar unwillingness to bear further opposition.”

had dictated, Zion was not to be “moved out of her place,” and the Mormons were to gather in upper Missouri for the purpose of retaking Jackson County once the armies of Zion were strong enough.²⁵⁸

I will hold the armies of Israel guiltless in taking possession of their own lands [in Jackson County], which they have previously purchased with their moneys, and of throwing down the towers of mine enemies that may be upon them, and scattering their watchmen, and avenging me of mine enemies unto the third and fourth generation of them that hate me. But first let my army become very great, and let it be sanctified before me, that it may become fair as the sun, and clear as the moon, and that her banners may be terrible unto all nations; That the kingdoms of this world may be constrained to acknowledge that the kingdom of Zion is in very deed the kingdom of our God and his Christ; therefore, let us become subject unto her laws.²⁵⁹

This helps explain why rather than heed Section 98’s higher invitation to perpetually forgive (or, in the alternative, to simply pick up and move the Saints out of Missouri at the first sign of conflict as the Saints had done elsewhere), Rigdon used the harshest retributive language that Section 98 permitted. If provoked, the Mormons would no longer countenance persecution or violence: they would fight back with equal violence. The Mormons—just as they had attempted to do with the Camp of Israel—were ready to fight to defend Zion. Perhaps unsurprisingly, Rigdon’s speech did not have the effect of averting more conflict, but rather played a role in causing it. To the non-Mormons, Rigdon’s July 4th Oration confirmed the Missourians’ worst fears—that the Mormons, too, were willing to take the law into their own hands and to act violently. Given the fact that the Mormons began to settle outside of Caldwell County, the internal dissension within the Church, and Rigdon’s inflammatory speech, it did not take long for a series of small conflicts to erupt between the two groups that quickly threatened to become a full-scale war.

²⁵⁸ Doctrine and Covenants 97:21.

²⁵⁹ Doctrine and Covenants 105: 30–32.

A Very Brief History of the Mormon War of 1838

The first sign of conflict was a brawl that broke out on election day, August 6 in Daviess County when some Missourians attempted to prevent some of the Mormon citizens from voting.²⁶⁰ While no one was fatally injured, the incident led to increased hostility between the two groups. On the next day, a group of vigilantes in Carroll County met and agreed to drive the Mormons out of the county. The vigilantes were successful in violently removing the Mormons from Carroll County on October 14. The refugees fled about 70 miles to safety in the Mormon township of Far West, with one elderly woman perishing along the way—the only casualty of the removal. In response to the expulsion, the Mormon Danites began to launch offensive attacks in Daviess County on what they deemed to be mob settlements by plundering and burning their homes and farms. The actions of the Danites led to an explosion of lawless conduct on both sides, and both the Missourians and the Mormons were actively preparing for civil war.

On October 24, Mormons in Far West got word that an armed mob was approaching their township. Mormon Apostle, David W. Patten, led an armed group to confront the military band near Crooked River. When the two groups approached one another, a firefight ensued, which left one Missourian and three Mormons dead. The armed

²⁶⁰ This section is not intended to be a full history of the so-called 1838 Mormon War. In fact, the war itself has been the subject of several excellent books and dissertations upon which this section will rely heavily. See, e.g., Richard Bushman, *Joseph Smith: Rough Stone Rolling*, 342–402; Leland H. Gentry and Todd Compton, *Fire and Sword: A History of the Latter-day Saints in Northern Missouri, 1836–39* (Salt Lake City, UT: Greg Kofford Books, 2011); Alexander Baugh, *A Call to Arms* (Provo, UT: BYU Studies, 2000); Steven C. LeSueur, *The 1838 Mormon War in Missouri* (Columbia, MO: University of Missouri Press, 1987).

group of Missourians was not a mob, but a detachment of the Richmond County militia.

When Governor Lilburn W. Boggs found out about the battle, he took the Mormon actions as evidence of treason rather than self-defense, and issued the following notorious order.

“[T]he Mormons [are] in the attitude of an open and avowed defiance of the laws,” he averred, “and of having made war upon the people of this state. Your orders are, therefore, to hasten your operation with all possible speed.” “*The Mormons must be treated as enemies, and must be exterminated or driven from the state if necessary for the public peace,*” he continued, “their outrages are beyond all description.”²⁶¹

However, even before the governor’s message had time to be relayed across the state, a group of furious vigilantes attacked a defenseless Mormon settlement called Haun’s Mill in Caldwell County on October 30, 1838. The attack left 17 dead (among which were women and children) and over a dozen more injured. On the same day, the Missouri state militia surrounded the Mormon city of Far West and on November 1 the Mormons surrendered. Before the conflict was entirely over, it would claim the lives of 40 Mormons and one Missourian with many injured on each side.

In the succeeding months, pursuant to the executive order, thousands of Mormons left Missouri in the dead of winter in search of a new home, the Majority eventually settling across the state line in Illinois. Dozens of Mormon leaders were arrested and brought before Judge Austin King and tried without regard to due process or constitutional principles.²⁶² Several were charged with spurious, nonbailable offenses such as murder and treason—

²⁶¹ Lilburn W. Boggs to John B. Clark, Oct. 27, 1838.

²⁶² Gordon Madsen, “Joseph Smith and the Missouri Court of Inquiry: Austin A. King’s Quest for Hostages,” *BYU Studies* 43 (2004): 93–136. Madsen’s primary argument is that Judge King used the trial of Joseph Smith and other church leaders as a way to pressure the Mormons to leave the state. *Ibid.*, 136.

including Joseph Smith, who was charged with the latter.²⁶³ Despite multiple instances of petitioning and even a trip to visit with congress and the president alike, as in Jackson and Clay counties before, the Saints would never receive proper redress for the wrongs committed against them. The Saints had lost Zion.

Conclusion

As in Jackson County and Clay County before, the Missourians justified their action in 1838 in part due to their fears of religious and political domination by the Mormons. A local paper on September 27, 1838, for example, reported that some old settlers in Daviess County were especially concerned that “they would be governed soon, by the Revelations of the great Prophet, Joe Smith, and hence their anxiety to rid themselves of such an incubus.”²⁶⁴ In the same paper, another concerned citizen worried that the “politico-theological tenets which have lately sprung up among them [the Mormons] . . . if they were carried out, would uproot social order in Missouri.”²⁶⁵ Similarly, John Corrill stated that the citizens of Daviess county felt that if a Mormon town grew rapidly, “it would injure Gallatin their county seat, and also that the Mormons would soon overrun Davies[s] and rule the county and they did not like to live under the laws and administration of ‘Jo Smith’.”²⁶⁶

Moreover, Elias Higbee, a Mormon leader, reported that the Missourian delegates who traveled to Washington D.C. in 1840 expressed similar apprehensions about the

²⁶³ See Sally Gordon, “Mormons and the Law” in *The Oxford Handbook for Mormonism*, eds. Terry L. Givens and Philip L. Barlow (New York: Oxford University Press, 2015), 591–605.

²⁶⁴ “The Mormons,” in the *Missouri Argus*, September 27, 1838.

²⁶⁵ *Ibid.*, December 20, 1838.

²⁶⁶ Corrill History, 163.

Mormons before Congress: “Mr. Jamison & Linn [the Missouri delegates] summoned all the energies of their mind to impress upon the assembly,” Higbee recounted, “that Jo. Smith as he called him, led the people altogether by revelation, in their temporal, civil & political matters, and by this means caused all the Mormons to vote the whole hog ticket on one side, except two persons.” Higbee rejected the notion that revelation guided all aspects of Mormon life. While he conceded that the Mormon leadership encouraged members to vote for the party least likely to harm them, in Higbee’s mind, “every man [Mormon] exercised the right of suffrage according to his better judgment or without any ecclesiasticle [sic] restraint being put upon him.”²⁶⁷ Many Missourians and even some Mormons, however, did not see it that way.

The Rule of law had broken down in northern Missouri in the fall of 1838, just as it had in 1836 and in 1833, and just as it did many times in antebellum America. Yet unlike other instances of religious persecution in early American history, the Mormons attempted to fight back rather than acquiesce to the will of the majority, which led to uncharacteristic violence. A primary reason for this was that the Mormon lands in Missouri, particularly those in Jackson County (and later in Daviess County), held sacred value for them.²⁶⁸ While many scholars have analyzed the animosity that existed between the Mormons and the non-Mormons in Missouri, none has identified the important role that Zion and religious liberty played in the conflicts, which this thesis has labored to demonstrate. Had there been proper religious liberty protections and the necessary enforcement of those protections, it is less

²⁶⁷ Letter from Elias Higbee, February 22, 1840, available at: <http://josephsmithpapers.org/paperSummary/letter-from-elias-higbee-22-february-1840?p=4&highlight=everything%20civil%20and%20political#!/paperSummary/letter-from-elias-higbee-22-february-1840&p=1>

²⁶⁸ Doctrine and Covenants 57:2.

likely that the Missourians would have taken illegal action against the Mormons—for they would not have feared domination by the Mormons. Had the Missourians not taken repeated, violent action against the Mormons, the Saints would not have sought retribution. And had the Mormons not had a spiritual and theological commitment to the locus of Zion in Missouri, they likely would have left Missouri peacefully.

The story of the Mormons in Missouri, then, cuts against the idea that America was already a place of robust religious liberty in the antebellum period. The United States, despite its state and federal protections of religious freedom, struggled to put its law into practice, especially for religious minorities. The frontier, which was usually relied on as a release valve for conflict, was ineffective at stopping the violence in Missouri, primarily because the Mormons had sacred commitment to the land and were unwilling to move. Moreover, by attempting to create their own religious establishment on the frontier, the Saints tested the very boundaries of religious freedom and expression in Missouri between 1831–1839. But this would not be the last time the Mormon faithful would test the boundaries. Later in the nineteenth century, conflict over the Mormon practice of polygamy would reach the national stage and result in some of the first Supreme Court cases to address the nature and scope of religious liberty.²⁶⁹ But rather than signaling the resolution of the problem in America, the Mormon cases were only the beginning of an extended conversation concerning religious liberty that has only persisted over the last century and a half, and shows no signs of stopping.

²⁶⁹ See, e.g., *United States v. Reynolds*, 345 U.S. 1 (1878); see also Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2002).

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