

---

Volume 42  
Issue 1 *Fall 1992: Symposium - Confronting the  
Wall of Separation: A New Dialogue Between  
Law and Religion on the Meaning of the First  
Amendment*

---

Article 12

## **The Integrity of Survival: A Mormon Response to Stanley Hauerwas**

Frederick Mark Gedicks

Follow this and additional works at: <https://via.library.depaul.edu/law-review>

---

### **Recommended Citation**

Frederick M. Gedicks, *The Integrity of Survival: A Mormon Response to Stanley Hauerwas*, 42 DePaul L. Rev. 167 (1992)  
Available at: <https://via.library.depaul.edu/law-review/vol42/iss1/12>

This Article is brought to you for free and open access by the College of Law at Digital Commons@DePaul. It has been accepted for inclusion in DePaul Law Review by an authorized editor of Digital Commons@DePaul. For more information, please contact [digitalservices@depaul.edu](mailto:digitalservices@depaul.edu).

## THE INTEGRITY OF SURVIVAL: A MORMON RESPONSE TO STANLEY HAUERWAS

*Frederick Mark Gedicks\**

When I was nineteen, I began a two-year mission to northern Italy for the Mormon Church. I hardly spoke any Italian, and I still remember vividly the first few months I was there, struggling to learn the language while my more experienced missionary companion did all the talking. Everyone spoke so fast, and I understood so little.

Evening appointments were especially difficult. The Italians were very friendly, and they always fed us dinner. So, by 9:00 or 9:30 in the evening, there I would be, exhausted from a day of work, stuffed full of pasta and mineral water, desperately trying to pick up a verb conjugation or a preposition in the spirited conversation around me. After a while, I would simply give up, wondering what in the world these people were talking about, not understanding a single thing they were saying.

This experience came back to me during this panel discussion. (This, as you will see, is a confession, not a criticism.) Part of my difficulty with this conversation is that I am a lawyer and most of the discourse has been theological. I have read, I think, just enough theology to get into trouble with this group, so I was grateful to John Garvey for just saying the words "checking value," and throwing me a rhetorical lifeline.<sup>1</sup>

I think the more serious difficulty, however, is that I am a Mormon. Professor Hauerwas seems to be talking from, or at least to, the mainstream Christian tradition in the United States, if not the world. Mormons are Christians — we are deeply committed to the divinity of Jesus — but we are neither mainstream nor traditional. It is not clear to me that a Mormon can take Hauerwas's position seriously. Certain aspects of our faith and the way we live it, to-

---

\* Professor of Law, Brigham Young University. J.D., University of Southern California. I am grateful to my colleague Cole Durham for comments on an earlier draft of this response, and to Christine Stone Jepsen for research assistance.

1. John H. Garvey, *Hauerwas on Religious Freedom*, 42 DEPAUL L. REV. 161, 162 (1992).

gether with certain aspects of our history, prevent us from understanding Hauerwas. To borrow a metaphor from Hans-Georg Gadamer, not only do our horizons not fuse, they are not even on the same planet.<sup>2</sup>

Accordingly, I will talk for a few minutes today about why I, as a Mormon, cannot take Hauerwas's position seriously. I emphasize, however, that I hold no position in the Mormon Church that gives me any authority to speak for the church or for other Mormons. Moreover, there is diversity of feeling among Mormons on this issue, and my remarks may not be representative of the beliefs of most (or even any) Mormons.

As I understand Professor Hauerwas (and as I said, I am not sure that I do), actual or potential persecution by the government is simply to be ignored by religious people. To be sure, religious people must endure persecution from time to time; government often forces itself upon religion. But one simply does not take government into account in deciding how to live a religious life. And one never, ever engages in attempts to control the government so as to eliminate persecution, other than by bearing (Christian) witness.

I think it is probably the case that many religious people are deceived into thinking that constitutional rights protect them from government persecution. The critique of rights is a powerful argument, and I agree with much of it.<sup>3</sup> But the critique of rights does not seem to constitute Hauerwas's argument. His argument is that the church corrupts and perverts itself when it affirmatively seeks to influence the government to mitigate or eliminate persecution.<sup>4</sup> So Hauerwas's argument is not that seeking religious freedom through political activism is ineffective or self-deceptive, but that it is simply wrong. He argues that activism on behalf of religious freedom transforms the church in ways that the church ought not to be transformed.

I think Hauerwas is right about this. If a church is politically active to secure the free exercise of religion for itself and its members, it cannot avoid being conscious of those of its beliefs which bring it into conflict with the government. And that consciousness,

---

2. See HANS-GEORG GADAMER, *TRUTH AND METHOD* 300-07 (Joel Weinsheimer & Donald G. Marshall trans., 2d rev. ed., Crossroad 1990) (1965).

3. For an introduction to rights criticism, see Symposium, *A Critique of Rights*, 62 TEX. L. REV. 1363 (1984).

4. Stanley Hauerwas & Michael Baxter, C.S.C., *The Kingship of Christ: Why Freedom of "Belief" Is Not Enough*, 42 DEPAUL L. REV. 107 (1992).

in turn, cannot help but influence what the church believes and how it practices those beliefs.<sup>5</sup> There is always the risk, if not the certainty, that in this activism the church will compromise its standards. I differ from Hauerwas in that I simply cannot draw the conclusion that the church, or perhaps I should say *my* church, should not be politically active and should not proactively seek constitutional and other protections for the exercise of its faith.

Most of you are probably familiar with the nineteenth-century confrontation between Mormons and the federal government, and I will not relate the chapter and verse on that. It lasted nearly fifty years, and was largely about the practice of polygamy or, as the Mormons preferred to call it, "plural marriage."<sup>6</sup> By 1890, it had become clear that the Mormons would lose this confrontation. The church was bankrupt; its assets were in the hands of a federal receiver;<sup>7</sup> its leadership was in prison or in hiding; and legislation that would have disenfranchised Mormons simply by virtue of their membership in the church had been introduced in Congress and seemed likely to pass.<sup>8</sup>

On September 25, 1890, Wilford Woodruff, then the president and prophet of the Mormon church, issued a declaration which Mormons know as the Manifesto. The Manifesto proclaimed that

5. Cf. *Corporation of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987) (Brennan, J., concurring). In deciding whether a blanket exemption from antidiscrimination laws is appropriate for religious organizations, Brennan stated that "[c]oncern for the autonomy of religious organizations demands that we avoid the entanglement and the chill on religious expression that a case-by-case determination [of eligibility for an exemption] would produce." *Id.* at 345-46.

6. It is sometimes suggested that plural marriage was a secondary cause of the persecution, that wresting political control of Utah and the surrounding territories from the Mormons was the federal government's actual goal. One hears in this suggestion a faint echo of the argument that the Civil War was more about economics than slavery. The conflict between the federal government and the Mormons was complex, and surely a number of factors beyond the Mormons' practice of plural marriage contributed to it. However, the fact that the federal government demanded the abandonment of plural marriage even after it was firmly in control of Utah Territory, and the additional fact that persecution ceased almost immediately upon the Mormons' abandonment of plural marriage, suggest that plural marriage was the most significant factor in the conflict.

7. The seized assets included the most central and sacred houses of Mormon worship — temples in Logan and St. George, and the almost-completed temple in Salt Lake City, which the Mormons had struggled to build for nearly forty years. Although a compromise had permitted the Mormons to lease their temples back from the receiver and thus maintain control over their use, this arrangement was strongly criticized by many federal officials and threatened to unravel at any time. See E. Leo Lyman, *The Political Background of the Woodruff Manifesto*, 24 *DIALOGUE: J. MORMON THOUGHT* 21, 31 (1991).

8. See JAMES B. ALLEN & GLEN M. LEONARD, *THE STORY OF THE LATTER-DAY SAINTS* 396-412 (1976); LEONARD J. ARRINGTON & DAVIS BITTON, *THE MORMON EXPERIENCE: A HISTORY OF THE LATTER-DAY SAINTS* 181-84 (1980); Lyman, *supra* note 7.

the church would immediately cease all belief in and practice of plural marriage.<sup>9</sup> Woodruff made it clear that he had seen a prophetic vision in which it was revealed to him that the Mormon Church would be utterly destroyed unless it abandoned polygamy:

I have arrived at a point in the History of my life as the President of the Church of Jesus Christ of Latter Day Saints where I am under the necessity of acting for the Temporal Salvation of the Church. The United States Government has taken a Stand & passed Laws to destroy the Latter day Saints upon the Subject of polygamy or Patriarchal order of Marriage. And after Praying to the Lord & feeling inspired by his spirit, I have issued the following Proclamation [i.e., the Manifesto] . . . .<sup>10</sup>

Following issuance of the Manifesto, federal persecution ended in short order.

How does this relate to Hauerwas's argument? Mormonism is a religion that is centered to a significant degree on action and works. It is not true, as some conservative Protestants maintain, that Mormons believe they can earn their way to salvation by doing good

9. See THE DOCTRINE AND COVENANTS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, Official Declaration 1 (1981) [hereinafter DOCTRINE & COVENANTS].

10. 9 WILFORD WOODRUFF JOURNAL 112-14 (1985) (spelling as in original). Woodruff further stated:

The Lord has Commanded me to put the following question to the Saints and those who will give Attention to it shall have the Holy Ghost to be with them to inspire them to Answer that question for themselves and the Lord has promised that the Answer will be to all alike. The question is this. Which is the wisest course for the latter Day Saints to pursue, to continue to attempt to practice plural Marriage with the Laws of the Nation against us and the opposition of 60,000,000 of People and at the Cost of Confiscation and loss of all the Temples and the stopping the ordinances therein . . . . And the imprisonment of the First Presidency and Twelve and the leaders or heads of family in the Church And the Confiscation of the personal property of the People . . . .

Or After doing and Suffering what we have through our adherence to this principle to cease the Practice and submit to the law and through doing so have the Prophets Apostles and Fathers at home so they Can instruct the People and attend to the Duties of the church, also leave the Temples in the hands of the Saints so they Can attend to the ordinances of the Gospel . . . . Now the inspiration of the Lord will reveal to any person which Course wisdom would dictate us to pursue . . . .

*Id.* at 167-71 (spelling as in original).

The foregoing was included in a sermon preached November 1, 1891, in Logan, Utah, in which Woodruff also declared the following:

The Lord showed me by vision and revelation exactly what would take place if we did not stop this practice. . . . I saw exactly what would come to pass if there was not something done. But I have had this spirit upon me for a long time. I want to say this: I should have let all the temples go out of our hands; I should have gone to prison myself, and let every other man go there, had not the God of heaven commanded me to do what I did do . . . .

Deseret Weekly, Nov. 14, 1891, at 59, 60, reprinted in DOCTRINE & COVENANTS, *supra* note 9.

works. But I think it is a fair observation that the connection between salvation and works in Mormonism is closer than it is in Protestantism. The *Book of Mormon* states: "[W]e know that it is by grace that we are saved, after all we can do."<sup>11</sup>

So it is not enough for Mormons simply to be faithful to the end. The way we live our religion is by doing everything we possibly can to be faithful to God. In a conflict between faith and survival, our beliefs require that we do all we can to stave off the end. That is exactly what the church did in its confrontation with the federal government over plural marriage. The church engaged lobbyists, retained the best lawyers it could find, repeatedly petitioned Congress and the presidents, politically organized, and sponsored economic boycotts. When these legal means failed, the church employed illegal means to combat the government, going underground and engaging in civil disobedience in an attempt to thwart federal enforcement efforts. If there had been any other course that showed any chance of success, the church certainly would have tried it.

When all its efforts failed, the church came face to face with one of the most serious crises of religious conscience: the choice between faithfulness and survival. Just as Wilford Woodruff had made it clear that the survival of the Mormon church depended on its abandoning plural marriage, he had also made it clear that this abandonment was the will of God. He maintained that he had received direct revelation that God no longer required the church to practice polygamy. In my religion, God does not always demand faithfulness over survival.<sup>12</sup> As Woodruff stated in the aftermath of the Manifesto: "The Lord has given us commandments concerning many things, and we have carried them out as far as we could; but when we cannot do it, we are justified. The Lord does not require at our hands things we cannot do."<sup>13</sup>

11. 2 Nephi 25:23 (The Church of Jesus Christ of Latter-Day Saints, 1981) (1st Eng. ed. 1830) (footnotes omitted).

12. There is a sort of positivist loophole here: if God approves the abandonment of a particular article of faith, then by abandoning the faith one is still being faithful to God's will. I have never found this suggestion spiritually satisfying, and note it here only in passing.

13. III WILLIAM E. BERRET & ALMA P. BURTON, READINGS IN LDS CHURCH HISTORY FROM ORIGINAL MANUSCRIPTS 112 (1958). See also III *id.* at 111-12.

The Lord has required at our hands many things that we have not done, many things that we were prevented from doing. The Lord required us to build a temple in Jackson County. We were prevented by violence from doing it. He required us to build a temple in Far West which we have not been able to do. A great many things have been required of us, and we have not been able to do them because of those that

In some respects, this is comforting because one knows that at some point, God may release the believer from obligations of faith that require too much suffering and pain and that are, frankly, impossible to accomplish. But this possibility also is a heavy burden of faith, because one can never be sure that she has done enough to be in the moral and religious position to ask God for release from an obligation of faith.

At any rate, while there were obvious costs to what Wilford Woodruff did on behalf of the Mormon Church, it does not seem to me that he erred in compromising to preserve the church. Mormons understand their church to exist in the world to do God's work, and the church clearly cannot do God's work unless it exists in the world. For Mormons, then, there is religious integrity even in compromise and survival.

From the perspective of the nineteenth-century church, there were aspects of Mormonism which were more important than plural marriage, and it became clear to the leaders of the church at that time that it was necessary to choose between them. They chose, with God's help, the religious practices and principles that they felt were more important than plural marriage. The tragedy, of course, is that they were forced to this choice at all.

The belief that one must do all in her power to avoid the choice between faithfulness and survival, and the knowledge that sometimes survival is more important than faithfulness when a choice between the two is unavoidable, prevent me from accepting Professor Hauerwas's position. Hauerwas was no doubt deliberately provocative in his choice of words so as to stimulate conversation. Even knowing that, I cannot conceive of activism on behalf of religious freedom as a "game," as he puts it. For me, religious freedom is deadly serious. It is serious because my church almost disappeared for lack of this freedom. Indeed, in a certain way, the church *did* disappear. The Mormon church was transformed by the Manifesto, and the church of today is very different from the church of 1890.<sup>14</sup>

Is the church today better off than it would have been had it chosen faithfulness over survival?<sup>15</sup> I do not even know how to think

---

surround us in the world.

14. See Armand L. Mauss, *Assimilation and Ambivalence: The Mormon Reaction to Americanization*, 22 *DIALOGUE: J. MORMON THOUGHT* 30 (1989).

15. Occasionally one hears, even among Mormons, that the federal government did Mormons a favor by forcing the abandonment of plural marriage. The suggestion is that this abandonment permitted Mormonism to approach the mainstream of American religions, where it has grown and

about this question, about whether it was better for the church to have compromised and survived than to have been absolutely faithful and disappeared. I do not know how to think about that at all. I only know that there is integrity in survival, and that faithfulness, the kind of faithfulness I hear Professor Hauerwas talking about, is not the only religious value. Faithfulness is not the only Christian value and, from my standpoint, it surely is not the only Mormon value. I can only trust that Wilford Woodruff made a choice approved by God.

I will close by stating the obvious: The Mormons of the nineteenth century would have preferred, I would prefer, and most religious people would prefer, never to face the choice between faithfulness and survival. One of the ways we can avoid this choice is by working for something called freedom of religion. I am not so naive as to think that if *Employment Division v. Smith*<sup>16</sup> were to be reversed, if the Religious Freedom Restoration Act of 1991<sup>17</sup> were to be passed, all government threats to religion would vanish. I am also not so naive, as I mentioned earlier, as to think that working within as well as against the state to carve out a space for the free exercise of religion does not undermine the principles of one's faith.

Nevertheless, for me these realities do not dictate the conclusion that Hauerwas draws, that we should pay no attention to freedom of religion. For me, as a Mormon, almost anything is worth avoiding the choice between faithfulness and survival. It is an agonizing choice, a terrible choice, a frightening choice. It is, truly, Hobson's choice. We must do what we can to save ourselves from it.

---

flourished.

This suggestion ignores the violence to religious conscience that the federal government visited upon nineteenth-century Mormons. As Douglas Laycock put it in a conversation with me after the panel, the Mormon Church is different today, not because Mormons freely chose to transform their faith, but because the federal government forced them to choose between faithfulness and survival. The difference goes to the core of religious freedom, as I have argued elsewhere. See Frederick Mark Gedicks, *Toward a Constitutional Jurisprudence of Religious Group Rights*, 1989 WIS. L. REV. 99 (advocating strong constitutional protection of the right of religious groups to discriminate in membership decisions).

16. 494 U.S. 872 (1990).

17. S. 2969, 102d Cong., 2d Sess. (1992); H.R. 2797, 102d Cong., 1st Sess. (1991).



