



# Jurisprudence and the Problem of Church Doctrine

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Mormons frequently refer to “Church Doctrine” in their theological discussions. For example, Sister Smith might express her belief that the earth is no more than five or six thousand years old and that the theory of evolution is a Satanically inspired plot. Brother Young responds by noting, “Those are just your opinions. That is not Church Doctrine.” Whatever else the term Church Doctrine might mean in this exchange, it is clearly functioning as a theological authority, delineating those beliefs that have a claim on Brother Young from those that do not. Like most Mormons, Brother Young seems to be conceptualizing Church Doctrine as some set of authoritative teachings promulgated by the Church<sup>1</sup> that it is possible to identify. Yet how we differentiate between Church Doctrine and mere opinion is unclear. I argue that we can analogize the problem of “What is Church Doctrine?” to the jurisprudential problem of “What is the law?” The answers offered by the philosophy of law to the second of these questions illuminates the sorts of answers that we can give to the first. Ultimately, I conclude that we discover Church Doctrine not by application of any hard and fast rule that allows us to identify it but rather through a process of interpretation. This approach to Church Doctrine, in turn, throws new light on two persistent issues in Mormon thought: the relationship between authority

and independent moral judgment, and the way in which Mormons interpret their own past.

Consider the example of the Roman Catholic Church. Like the Church, Roman Catholicism has an integrated ecclesiastical structure with a strong emphasis on authority. Were one interested in the “Church Doctrine” of Roman Catholicism, one would consult the *Catechism of the Catholic Church*. This is a volume of 864 pages promulgated in 1992 by Pope John Paul II which sets forth the official doctrine of Roman Catholicism.<sup>2</sup> The Church has no analogous volume. In the nineteenth century, John Jacques attempted to synthesize Church Doctrine into a Mormon catechism, but his work did not survive and has garnered few imitators in the century or more since it was published.<sup>3</sup> More recently, Elder Bruce R. McConkie attempted a complete synthesis of Church Doctrine in his book *Mormon Doctrine*, but the only thing that seems clear about the doctrinal status of that work is that it is not official Church Doctrine.<sup>4</sup>

In an age of correlation, we seem to have an easy solution to the problem of what is Church Doctrine. Church Doctrine is simply whatever is published by the Church, perhaps subject to the caveat that it has been properly correlated. Let’s call this the correlation argument. This is where our first analogy from the philosophy of law appears. During the first half of the twentieth-century a group of American thinkers known as the legal realists adopted a similarly functional answer to the question, “what is the law?” As one representative scholar in the movement wrote:

[D]oing something about disputes . . . is the business of law. And the people who have the doing in charge, whether they be judges or sheriffs or clerks or jailers or lawyers, are officials of the law. *What these officials do about disputes is, to my mind, the law itself.*<sup>5</sup>

Hopefully the analogy to the correlation argument is clear. Just as in the realist view law is simply what the judges do, in the correlation argument Church Doctrine is simply what correlation says. The correlation argument, however, suffers from precisely the same problem as the realist conception of law. One cannot say that the law is simply what the judges do, because the judges themselves look up the law and try to follow it in rendering their decisions. Accordingly, law as what the judges do runs into a hopeless problem of circularity. The problem with the correlation argument – and with most other arguments that seek to identify Church Doctrine as

simply “what X person says” – is that those on the correlation committees (and others who speak for the Church) look to Church Doctrine as the governing standard of what they are doing. In other words, in the best of all possible worlds correlated Church statements are not Church Doctrine because they are correlated. Rather they are correlated to conform with Church Doctrine. This assumes, however, that Church Doctrine exists as some body of identifiable, authoritative teachings *independent of correlation or whoever else is expounding it*. My point is not that Church Doctrine doesn’t exist or that it somehow lacks authority. Nor is my point even that we are incapable of identifying clear instances of Church Doctrine. The claims that Jesus Christ is the savior of mankind and that good Latter-day Saints should not drink coffee are both uncontroversial instances of Church Doctrine. My point is that identifying the full contours of Church Doctrine presents a puzzle; a puzzle that legal philosophy can assist us in untangling.

#### JURISPRUDENTIAL SOLUTIONS TO THE PROBLEM OF CHURCH DOCTRINE

Jurists and political philosophers tend to ask different questions about the law. Political philosophers are largely concerned with justification. They tend to assume that the question of what the law is is relatively simple, and they want to spend their time thinking about what sorts of laws are justified. Jurists, in contrast, know from experience that the contours of the law are frequently unclear and determining what the law is can be as difficult as determining whether it is justified. Ultimately, the jurists’ questions are of more use for thinking about how we discover Church Doctrine than the political philosophers’ questions. This is because rather than seeking to determine the extent to which the law’s authority is justified, the jurists seek to determine how far the law’s claim of authority extends. It is this focus on form over substance that makes the juristic arguments useful for thinking about Church Doctrine. This is because the question of how we identify Church Doctrine is a formal question rather than a substantive question. We are not interested in what Church Doctrine ought to be but rather in what it actually is. Consider analogies to three jurisprudential theories: natural law, legal positivism, and law as integrity.

The idea of natural law makes its entrance into legal philosophy in the work of the ancient Stoics, and since that time the term has followed so many twists and turns and taken on so many different meanings and nuances that it is dangerous to speak of *the* natural law account of the law. Forced to hazard a brief definition, however, I think that the core of natural law can be stated as the claim that law is defined in terms of what is actually morally justified. Perhaps more importantly, natural law involves a very strong negative claim, namely that a command or rule that is immoral, no matter how official looking, is not law. Suffice it to say that this is a gross over-simplification, and that natural law does not simply identify law and morality. Natural law thinkers acknowledge that law has certain social and institutional aspects – for example enforcement – but what they deny is that it can be defined purely by reference to its social aspect.

What would an analogous theory of Church Doctrine look like? Joseph Smith once declared, “One of the grand fundamental principles of ‘Mormonism’ is to receive truth let it come from whence it may,”<sup>6</sup> and Brigham Young taught, “‘Mormonism’ embraces all truth that is revealed and that is unrevealed, whether religious, political, scientific, or philosophical.”<sup>7</sup> Brigham, I take it, is making a claim about the contours of Mormonism properly understood, rather than about the status of the society of Deseret in the nineteenth century (or the society of the Wasatch Front in the twenty-first century, for that matter). Mormonism, on this view, is co-extensive with truth. Applying this notion to Church Doctrine, we would say that Church Doctrine is that which is true. In other words, truth acts as our criteria for identifying Church Doctrine. Just as natural law identifies law with morality, a natural law approach to the question of what is Church Doctrine identifies it with truth. There is an appealing audacity and expansiveness to this approach, but unfortunately it suffers from some basic problems.

Saying that Church Doctrine is simply coextensive with what is true cannot make sense of some very basic ways in which the concept is used. Consider, once more Sister Smith’s claims about the age of the earth. Imagine that Brother Young’s reaction – “That is just your opinion. It is not Church Doctrine” – is prompted by the fact that he is uncertain about the age of the earth. There would be nothing shocking about Brother Young’s invocation of Church Doctrine in such a situation. Faced with a doubtful situation, he is using Church Doctrine to confirm the legitimacy

of his doubt. He is not required by its authority to assent to Sister Smith's position. Furthermore, it is precisely because Brother Young seems to know the contours of Church Doctrine that he knows that he is under no obligation to accept Sister Smith's claims. Yet if Church Doctrine were truth, in identifying its contours he would necessarily have laid to rest any doubts as to Sister Smith's position. Indeed, placing it outside of Church Doctrine would be tantamount to claiming that it was false. Yet this is precisely what our doubtful Brother Young refuses to do.

The problem of Church Doctrine as truth is further undermined if we believe – as I think we are required to do – that there are issues about which Church Doctrine is silent. For example, I take it to be fairly uncontroversial that there is no Church Doctrine on the precise location of Williamsburg, Virginia. Somewhat more controversially, one can plausibly (and correctly in my view) claim that there is no Church Doctrine on the truth or falsity of the theory of evolution.<sup>8</sup> No one could plausibly argue, however, that because of this, no statement about the location of Williamsburg, Virginia (or the theory of evolution) could be true or false. The statement that “Williamsburg, Virginia is located on the banks of the Potomac River” is clearly false, the silence of Church Doctrine notwithstanding. Nor does it make sense of our ordinary usage of the term Church Doctrine to say, “It is Church Doctrine that Williamsburg, Virginia is on the York-James Peninsula.” One might try to save the Church Doctrine as truth approach by refining it somewhat, saying that Church Doctrine is any truth that is taught by or in the Church. The refinement runs into two problems. First, it leaves unanswered the difficult question of what constitutes teaching by the Church (more on this below). Second, it still doesn't capture the way in which the concept of Church Doctrine is used. An example illustrates both points. Suppose that I am called as gospel doctrine teacher in my ward. I then begin teaching in class that Williamsburg, Virginia is located on the York-James Peninsula, including in my lesson a detailed discussion of the geography of the Virginia tidewater. My bishop then instructs me to stop, telling me that I should confine my teaching to Church Doctrine. Clearly his instructions do not do any violence to the ordinary usage of Church Doctrine, even though there is nothing false about my teachings. They do suggest, however, that Church Doctrine cannot be understood as any truth that is taught in the context of the Church.

Legal positivism provides a second possible analogy for Church Doctrine. According to H.L.A. Hart, an influential legal positivist, law is a

system of rules. Some rules govern human behavior, for example the rule that murder is prohibited. Some rules govern the promulgation and validity of other rules. On this view, law is ultimately defined by what Hart called a “rule of recognition.”<sup>9</sup> This is a rule that allows us to differentiate those rules that are law from other rules, such as rules of manners or the rules of golf, which are not law. For example, in the United Kingdom a statute passed by the House of Commons is law. This is a rule of recognition.

Positivism provides a seemingly elegant solution to the problem of what is Church Doctrine. All that is necessary is to identify a rule of recognition for Church Doctrine. The problem is that as a matter of social understanding it does not appear that any such rule of recognition exists. It is tempting to look to the scriptures and the idea of canonization as a rule of recognition. On this view, Church Doctrine would consist of whatever the scriptures say. There are at least two problems with this approach. First, it is over- and under-inclusive. There are certain things that are very clearly Church Doctrine that cannot really be found in the scriptures. For example, our current understanding of the Word of Wisdom exceeds the text of the Doctrine & Covenants. The very fact that the Word of Wisdom is regarded today as a commandment is at odds with the text itself, which clearly states that it is not given by way of commandment (see D&C 89:2). The scriptures also contain many teachings that are not Church Doctrine. For example, certain aspects of the text of the Word of Wisdom – such as the prohibition on meat except in winter or time of famine – are not regarded as normative (see D&C 89:12-13). Likewise, Christ’s prohibition on divorce in the Gospel of Mark does not seem to be Church Doctrine (see Mark 10:6-9), to say nothing of the intricate rules found in the Pentateuch.

The second problem with looking only to the scriptures for Church Doctrine is the problem of interpretation. Mormonism begins with a rejection of the sufficiency of scriptural interpretation standing alone. After finding himself caught up in a war of words between the rival evangelists in Palmyra, Joseph Smith noted that “the teachers of religion of the different sects understood the same passages of scripture so differently as to *destroy all confidence in settling the question by an appeal to the Bible*” (JS-H 1:11-12; emphasis added). The new revelation of the Restoration came only after the sufficiency of scripture had been rejected. As it now stands, Mormons regularly invoke the concept of Church Doctrine as an aid to the interpretation of scripture. For example, should someone teach

that the text of D&C 89 requires that Mormons become vegetarians; the standard response would be, “That is just your interpretation; it is not Church Doctrine.” This points, however, to an important function of Church Doctrine. It is something that we frequently use to identify which interpretations of scripture are authoritative and which are not. This means, however, that Church Doctrine necessarily exceeds the Standard Works standing alone.

Finally, one might look to the statements of General Authorities as providing a clear rule of recognition for Church Doctrine. Joseph Smith, however, insisted that a prophet is only a prophet when speaking as a prophet. What we lack, however, is a clear criterion for identifying when a prophet is speaking as a prophet. For example, should we assume that everything uttered in general conference is Church Doctrine? If so, is it because the speakers in general conference are careful to make sure that they don’t say anything that contradicts Church Doctrine, or because Church Doctrine simply is what is said in general conference? Furthermore, is Church Doctrine confined to some set of public statements by high Church leaders? For example, if the General Handbook of Instructions were modified so that abstinence from coffee was no longer necessary to qualify as worthy for a temple recommend, would such a change constitute a shift in Church Doctrine, even if it was not announced from the pulpit in general conference? The fact that we do not have clear answers to these questions suggests to me that we lack a clear rule of recognition for what constitutes Church Doctrine. This does not mean, of course, that the words of scripture and modern prophets are without authority. It simply means that a statement does not become Church Doctrine by virtue of being uttered by any particular Church leader or even by virtue of being printed in the Standard Works. Nor does it mean that the various potential rules of recognition that we might propose are wrong per se. All of these rules can help to orient us toward Church Doctrine. However, they cannot provide a fool-proof way of identifying Church Doctrine in every case.

## LAW AS INTEGRITY AND CHURCH DOCTRINE

“Law as integrity” provides an attractive alternative to the analogy of legal positivism. This approach begins with so-called “easy cases,” situations where what the law consists of and what it demands

is more or less clear and obvious. For example, we know that the U.S. Constitution's requirement that the President be at least 35 years of age can be identified as the law without recourse to any elaborate theory of what law is. Such obviously true legal propositions abound: Lower courts are bound to apply the holdings of higher courts; the 1964 Civil Rights Act clearly forbids a Hilton from refusing to serve a patron because he or she is Black; after centuries of accumulated precedent many common-law rules, like the requirement that a will have two witnesses, are beyond serious question. The vast majority of legal disputes involve such "easy cases." We only require a theory of "what is the law?" when we are faced with what Ronald Dworkin has called "hard cases."<sup>10</sup> In these situations the scope of the law is unclear and we are hard pressed to identify its demands. Dworkin imagines how a perfect judge, who he names Hercules, would decide such a case.<sup>11</sup> According to Dworkin, Hercules would survey the vast mass of clear and easy law relating to the issue. He would then construct an account that makes sense of all of this material. Any theory of law must do this because the clear and easy law is binding, hence his interpretation must fit and justify it.

Dworkin gives the example of the English case of *McLaughlin v. O'Brian*.<sup>12</sup> The case involved a woman who sued a negligent driver for damages for emotional distress. The woman was not in the car accident and had not been physically injured in any way. Rather, she was called to the hospital where she learned that her husband and daughter had been killed. Previous English cases had awarded damages for emotional distress but only in cases where the plaintiff had actually witnessed the injury or had come upon a loved one's corpse at the scene of the accident.<sup>13</sup> The question presented by *McLaughlin* was whether or not these cases authorized damages in a situation where emotional distress was removed from the scene of the accident to the more antiseptic setting of the hospital.

In deciding a case like *McLaughlin*, Hercules does not simply decide whether he believes, all things considered, that recovery for emotional distress in this situation is a good idea. Rather he begins with the earlier cases. Suppose, for example, that Hercules believes that any recovery for emotional distress would be misguided. He thinks that it is a bad policy and that the moral arguments in favor of compensating emotional distress are weak. He cannot, however, simply apply this judgment to *McLaughlin's* case, because the previous decisions by which he is bound clearly reject his



position by awarding damages. Nor may he simply hold that the previous decisions were mistaken and that from now on no damages for emotional distress will be awarded.<sup>14</sup> Rather, Hercules must look at the previously decided cases and construct the best possible argument that he can to justify them. In justifying them, he looks not only at the outcomes in the cases, but also to the reasons offered by the previous judges. He must also account for these reasons, although in constructing the best possible justification for the previous cases he will necessarily recharacterize the reasoning of previous judges. Thus the arguments in support of the holdings evolve over time. In *McLaughlin*, Hercules would draw on the best possible understanding that he has of policy and political morality to justify the conclusion that those who witness the death of a loved one should be compensated, and he would then decide if those arguments justify giving the wife and mother of accident victims compensation when she learns of the deaths in a hospital. Hercules' interpretation involves normative judgments, but it is not simply a matter of *his* normative judgments. Rather, discovering what the law requires in a particular case is a matter of giving force to the latent normative judgments of previous, controlling precedents. Put another way, to discover the law in a "hard case" a judge creates a story that makes sense of the clearly established cases and then fits the new case into that story in a way that places the whole in the best possible light.

In my view, thinking of Church Doctrine as an analogous kind of interpretation provides the best account of how we discover it. The advantage of this view is that it does not require that we have any clear idea about the rule of recognition. It simply requires that we have some easily identifiable core cases of Church Doctrine from which we can reason. This is precisely the situation in which we find ourselves. We can easily imagine that Brother Young and Sister Smith have very different opinions about the rule of recognition for Church Doctrine. For example, Brother Young might believe that Church Doctrine consists only of texts formally canonized by a vote in general conference, while Sister Smith might regard any public sermon by a member of the Quorum of the Twelve as Church Doctrine. Both of them agree, however, that it is Church Doctrine that Jesus Christ is the savior of mankind and that Latter-day Saints should not drink coffee. When faced with a new question about Church Doctrine, rather than trying to determine which of them has the correct rule of recognition they can simply reason on the basis of clear cases, fitting

the new question into a story that will place things in their best possible light. More importantly, I think that this is how most Mormons actually use the concept of Church Doctrine. To be sure, Latter-day Saints point to authoritative statements in support of their claim that this or that proposition or rule of conduct is Church Doctrine. However, all of these claims are made against a background of teachings, experiences, and texts that they seek to accommodate and charitably characterize. It is their interpretation of the totality that produces their conclusions about what is or is not Church Doctrine.

There are obviously important ways in which Church Doctrine as integrity is different than law as integrity. A judge faced with a case does not have the luxury of not resolving the question presented. Once the parties have concluded the litigation, the judge is required to declare one of the parties a winner. In centuries gone by a judge could rule *dubitante*, simply declaring that the law was unclear and leaving the case undecided, but this is no longer allowed. Accordingly, a jurisprudential theory requires that the law be complete in the sense of providing some definitive answer to any case that can be posed to it. Even in hard cases there are answers, and the law is without gaps. Church Doctrine, however, doesn't labor under the same institutional imperatives as the law. Sometimes – often – the best interpretation of Mormon texts, practices, and history will be *dubitante*. We simply don't know. Even here, however, the process of interpretation will discipline our ignorance. Mormon texts, practices, and history will foreclose certain answers even while they make other answers more likely, all the while not definitively laying the matter to rest. Hence, on some questions – such as the location of towns in the Virginia tidewater – Church Doctrine is simply silent. On other questions, however, the answer might be something like, “Well, under Church Doctrine there are a couple of possible answers...”

For example, the precise meaning of the term “intelligence” as it is used in the scriptures is notoriously vague. Bruce R. McConkie suggested that “intelligence” consisted of some sort of pre-sentient stuff from which spirits are organized.<sup>15</sup> B. H. Roberts thought that “intelligences” were the eternal, self-existent, self-aware core of the spirit that could neither be created nor destroyed.<sup>16</sup> Perhaps most esoterically, Orson Pratt suggested that “intelligence” was an elemental fluid of divinity that pervaded to a greater and lesser extent the entire universe.<sup>17</sup> (Blake Ostler has recently articulated a philosophically sophisticated modern version of

Pratt's position.<sup>18</sup>) I take it that none of these positions can be identified as the authoritative approach of Church Doctrine to the question. They all fit and justify Mormon texts, practices, and history to a greater or lesser extent. On the other hand Church Doctrine *does* foreclose certain theories of intelligence. For example, the consistent rejection of the doctrine of ex nihilo creation by Mormon scriptures and authorities would foreclose the idea that Church Doctrine can accommodate the view that "intelligence" refers to some spirit substance created from nothing by God through an act of divine fiat.

The question of whether Diet Coke is prohibited by the Word of Wisdom provides an example of how we discover Church Doctrine. We start with the brute fact that we all agree that the Word of Wisdom is Church Doctrine and that it forbids drinking coffee, tea, and alcohol. What would be the best story that one could tell about this? One story would be to say that it is a health code designed to prohibit the ingestion of bad substances.<sup>19</sup> Thus we look at alcohol and caffeine and use them as touchstones for Word of Wisdom compliance. On this view, chocolate and Diet Coke, both of which contain caffeine, are out. There are a number of problems with this interpretation. For example, the schedule of prohibited substances is strangely random from a purely health-oriented point of view. Why condemn excessive meat consumption but not excessive sugar consumption? Why explicitly include relatively harmless substances like tea or coffee but not narcotics? One might offer the argument that in the nineteenth century when Section 89 was given they didn't have such drugs. This, however, is historically inaccurate. The nineteenth century was well acquainted with narcotics like opium. Furthermore, the current interpretation of "hot drinks" as meaning tea and coffee (but not herb tea) didn't gel until the twentieth century, so it is not clear why nineteenth-century practice should control. Given these difficulties, one could conclude that the bad-substances interpretation doesn't provide the best account of the rules. A better account is that the prohibition is meant as a reminder or symbol of the covenant that I make with God and an open-ended admonition to be healthy. This explains the seemingly arbitrary schedule of prohibited substances. As symbols they are arbitrary in the same way that using the shape "A" to designate the sound "ahhh" is arbitrary. It also explains the rise of the Word of Wisdom as a central part of Mormon identity in the 1930s. As outward reminders of Mormons' status as a "peculiar people" in the form of

things like polygamy or the United Order retreated in the face of intense outside pressure, the Word of Wisdom provided a workable mark of the covenant. On this reading, however, the prohibition on hot drinks cannot be reduced to a prohibition on caffeine that then extends to Diet Coke. It does suggest, however, that one should avoid consumption – including the consumption of Diet Coke – that is bad for one’s health.

#### SOME IMPLICATIONS OF CHURCH DOCTRINE AS INTEGRITY: HISTORICAL INTERPRETATION

This interpretation of the Word of Wisdom may or may not be correct, but it does illustrate how applying an interpretive approach to the problem of Church Doctrine would work. This approach also casts light on two persistent intellectual issues within Mormonism: historical interpretation and the role of personal judgment in following Church Doctrine. The Word of Wisdom example illustrates how an interpretive approach makes sense of history and change in Church Doctrine. The notion of Church Doctrine as a story whose totality must be accounted for with a new chapter fits in nicely with Mormon ideas of continuing revelation (e.g. A. of F. 9) and with the reality of evolution in Mormon thought.<sup>20</sup> The requirement that the story be told in the way that places it in the best possible light also accounts for the persistent tendency of Mormons to understand their own history in the rosier possible terms. Generally, this approach to Mormon history has been characterized as simple apologetics and chalked up to naiveté or perhaps dishonesty.<sup>21</sup> Seeing the discovery of Church Doctrine as an exercise in interpretation, however, suggests that the goal of much of Mormon discussion of history is neither history nor apologetics. Rather it is a search for what is normative and what is not. In seeking to understand their past in the best possible light, Mormons are trying to understand which parts of that past have a claim on them and which parts do not. The stories function less as historical explanations or even “faith promoting” narratives than as an exercise in the discovery of Church Doctrine.

This is not meant as a historical apology for traditional Mormon history. No doubt the search for the normative in Mormon history obscures a great deal and creates a distorted view of the past. If our goal is to understand fully – in so far as we are able – the nature of historical events, then we will need to consider and offer interpretations that will not fit into

the narrative of Church Doctrine. Neither historical explanations nor the doctrinal search for the normative in the Mormon past are illegitimate. They are, however, different sorts of endeavors, although Mormons are seldom clear – even in their own minds – about which exercise they are engaged in.<sup>22</sup> For example, the explanation for the twentieth-century rise in the importance of the Word of Wisdom offered above uses the interpretation of the past as a way of discovering the current contours of normativity. It may or may not be an accurate or compelling historical explanation. Indeed, it obscures things that a fully realized historical explanation should consider. For example, a purely historical explanation would take into account Heber J. Grant's life-long affiliation with the temperance movement and his failure to keep Utah from casting the deciding vote to repeal Prohibition.<sup>23</sup> It would also consider the role that the economic imperatives of pioneer Utah played in the emphasis on the Word of Wisdom.<sup>24</sup> And so on. However, despite superficial appearances, my interpretation of the Word of Wisdom is not offered as a historical account at all. Rather it is seeking to understand history only in a very narrow and specific way, namely as a part of the current structure of authoritative Church Doctrine. To paraphrase Dworkin:

[The discovery of Church Doctrine] begins in the present and pursues the past only so far as and in the way its contemporary focus dictates. It does not aim to recapture, even for present [Church Doctrine], the ideals or practical purposes of the [authorities] who first created it. It aims rather to justify what they did (sometimes including what they said) in an overall story worth telling now, a story with a complex claim: that present practice can be organized by and justified in principles sufficiently attractive to provide an honorable future.<sup>25</sup>

#### SOME IMPLICATIONS OF CHURCH DOCTRINE AS INTEGRITY: OBEDIENCE AND PERSONAL JUDGMENT

This approach also provides a more nuanced understanding of the relationship between individual judgment and following Church Doctrine. To see how, we must understand that on this view Church Doctrine is inherently contestable. This doesn't mean that doctrinal questions are without correct answers.<sup>26</sup> Indeed the interpretive approach

necessarily assumes that many aspects of Church Doctrine are clear. Rather it means that we always can have disagreements about certain aspects of what Church Doctrine requires and that the only way of doctrinally settling these disagreements will be by resort to complex arguments about the best possible story to be told. It is important to understand that when I say that certain aspects of Church Doctrine are inherently contestable, I am not talking about disagreements over whether Church Doctrine is true or whether it should be followed. Rather I am talking about disagreements over the *content* of Church Doctrine itself. This inherent contestability is illustrated by the fact that the Church's solution to the practical problems created by doctrinal disputes is not a clear and mechanical rule for discovering what is Church Doctrine. We lack an intellectual formula for escaping the demands of interpretation. Rather the coping mechanisms are essentially moral and institutional.

Morally, we are to discuss Church Doctrine with charity and unity, avoiding "contention." In the Book of Mormon, the risen Christ teaches, "For verily, verily I say unto you, he that hath the spirit of contention is not of me, but is of the devil, who is the father of contention, and he stirreth up the hearts of men to content with anger, one with another" (3 Ne. 11:28-29). This is not a philosophical Rosetta Stone that allows us to transparently identify authoritative Church Doctrine. This fact suggests that the primary danger of the contestability of Church Doctrine is not epistemic. It is not that we will be mistaken. Rather, it is moral and social. It is the danger of rancor, discord, and a loss of unity. Accordingly, we have a solution in the form of a moral injunction about social interactions – in this case doctrinal discussions – rather than an intellectual method for resolving doctrinal disputes.

In addition to a morality of doctrinal discussion, we have institutional solutions to the practical difficulties of doctrinal disagreements. Return once again to the initial disagreement between Sister Smith and Brother Young. Imagine that Sister Smith is called as a gospel doctrine teacher and begins vociferously teaching her anti-evolution views during class. Brother Young suggests to her that she should stop teaching her opinions as Church Doctrine. Sister Smith indignantly replies that her views on the age of the earth *are* Church Doctrine, insisting that she holds them precisely for this reason. Both parties take the dispute to their bishop. He asks that Sister Smith confine her lesson more closely to the text of the assigned scriptures. Such a solution to Sister Smith's and Brother Young's

doctrinal disagreement is entirely institutional. Indeed, it needn't take a doctrinal position at all on the resolution of the dispute. The bishop's decision controls in this situation not because he has privileged access to Church Doctrine per se but simply because he is the bishop. In this sense, the hierarchy of the Church, with its accompanying notions of stewardship and jurisdiction, renders a theory that incontestably identifies Church Doctrine unnecessary.<sup>27</sup> The success of the ethical and institution methods of coping with doctrinal disagreement underscores the inherent contestability of Church Doctrine. Given the proper attitude and institutional structure, the contestability seems to be something that we can live with. Nevertheless, the contestability remains.

The source of this inherent contestability lies in the fact that we can only discover Church Doctrine by finding the best possible story that can be told about the texts, practices, and history of Mormonism. Not only is this process of interpretation complicated, but the principle of charity means that it necessarily involves normative judgments that are inherently contestable. This does not mean, however, that discovering Church Doctrine is a free-wheeling exercise in normative reasoning. Such a view fails to appreciate the difference between judging what would make the best story about a particular set of phenomena and simply judging what would be best. Discovering Church Doctrine requires that we make sense of clear instances of Church Doctrine and their context (contemporary and historical). This interpretive requirement forecloses certain possibilities. For example, suppose that I come to believe – after careful consideration – that the best way of memorializing gospel covenants in our lives would be to eat only white food, since whiteness denotes purity and ingestion is a powerful way of symbolizing how we take the gospel into our very being. (Something like this view was common among early Christians.) Whatever the merits of this practice, it is not Church Doctrine. It does not purport to offer an interpretation of the teachings and practices of the Church. In contrast, the interpretation of the Word of Wisdom that I offered above assumes that the Word of Wisdom is an authority that forecloses, for example, the modest and healthy consumption of wine.

The precise nature of the link between the authority of Church Doctrine and the need to tell the best possible story about it is complicated. The search for the best possible story is not offered as an account of the authority of Church Doctrine. It does not aim at fully justifying it. Such a justification must come from elsewhere, and its nature is beyond the scope

of this essay.<sup>28</sup> Suffice it to say that the source of the authority of Church Doctrine likely lies in covenants, priesthood power, the privileged access of prophets to the divine, and the needs of the saints as a community. These are all normative grounds separate from the particular stories that we tell about particular doctrines. (Although to be sure, the grounds of Church Doctrine's authority no doubt have their role to play in understanding this or that question about its contours.) However, the authority of Church Doctrine does require that we look at it in the best possible light. Such an approach acknowledges that Church Doctrine is something with a claim upon us, something normative.

Hence, following Church Doctrine does not constitute an abdication of independent moral judgment, as has been so often suggested. Following Church Doctrine does mean subordinating one's independent substantive judgments on an issue to which Church Doctrine speaks. Yet understanding what Church Doctrine requires is not a mechanical process. Acknowledging the authority of Church Doctrine means committing oneself to discovering its demands. Yet this process of discovery will necessarily involve making independent judgments about what provides the best possible story to be told about the totality of known doctrines. Put another way, independent of its legitimacy or justification, *discovering* the bounds of authority is at least in part a normative inquiry that requires our independent judgment. Even in obedience we "must be as gods, knowing good and evil" (Moses 4:11).<sup>29</sup>

## CONCLUSION

**M**y goal in this essay has not been to reform or critique the way that Mormons use the concept of Church Doctrine. Rather, I have tried to elucidate what I take to be the underlying logic of their practice. Hence, the interpretive approach that I draw by analogy from the philosophy of law is not offered as something new. Rather, I think that on this point Mormons are rather like the man who discovers that he has been speaking prose all his life. Analogizing the question of how we know if something is Church Doctrine to the question of how we know if something is law, however, does allow us to bring certain issues into sharper focus. First, it allows us to recognize that we lack a rule of recognition for what is Church Doctrine. Second, it provides us with a way of understanding why



this is not a serious theoretical objection to our current practice. Finally, by revealing the inherently interpretive nature of discovering Church Doctrine, it hopefully sheds light on some of our other institutional and theoretical practices.

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## NOTES

<sup>1</sup> Unless otherwise noted, all references to “the Church” are to The Church of Jesus Christ of Latter-day Saints.

<sup>2</sup> See *Catechism of the Catholic Church*, 2nd ed. (New York: Doubleday, 2003).

<sup>3</sup> See Davis Bitton, “Mormon Catechisms,” *Task Papers in Mormon History no. 14* (Salt Lake City: History Division, Historical Department, The Church of Jesus Christ of Latter-day Saints, 1976) Copy available in the Harold B. Lee Library at Brigham Young University.

<sup>4</sup> See Preface in Bruce R. McConkie, *Mormon Doctrine*, 2d ed. (Salt Lake City: Bookcraft, 1966). (“For the work itself, I assume sole and full responsibility.”).

<sup>5</sup> Karl Llewellyn, *The Bramble Bush: On Our Law and Its Study* (New York: Oceana Publications, Inc., 1930), 3.

<sup>6</sup> Joseph Smith Jr., *Teachings of the Prophet Joseph Smith*, ed. Joseph Fielding Smith (Salt Lake City: Deseret Book, 1976), 313.

<sup>7</sup> Brigham Young, *The Discourses of Brigham Young*, ed. John A. Widtsoe (Salt Lake City: Deseret Book, 1925), 2.

<sup>8</sup> For the record: I think that the theory of evolution is true. I do not think that there is anything in Church Doctrine *per se* that requires this view. See generally William E. Evenson and Duane E. Jeffery, eds., *Mormonism and Evolution: The Authoritative LDS Statements* (Salt Lake City: Kofford Books, 2006).

<sup>9</sup> H.L.A. Hart, *The Concept of Law*, 2nd ed. (Oxford: Clarendon Press, 1997), 100-110.

<sup>10</sup> Ronald Dworkin, “Hard Cases,” in *Taking Rights Seriously* (Cambridge, Massachusetts: Harvard University Press, 1978), 81.

<sup>11</sup> Ronald Dworkin, *Law’s Empire* (Cambridge, Massachusetts: Harvard University Press, 1986), 239-240.

<sup>12</sup> [1983]1 A.C. 410, reversing [1981] Q.B. 599.

<sup>13</sup> See *Marshall v. Kionel Enterprises Inc.*, [1971] O.R. 177, *Chadwick v. British Transport*, [1967] 1 W.L.R. 912.

<sup>14</sup> This is true even though common-law courts can overrule previous decisions. The issue of overruling precedent is a complicated question beyond the scope of this article. Suffice it to say that courts do not simply reject precedent when they disagree with it, but rather they overrule a previous case only when subsequent

decisions decided under it severely undermine its holding and rationale. For example, in *Brown v. Board of Education*, which struck down racial segregation in primary-level public schools, the Supreme Court reversed its previous decision in *Plessy v. Ferguson*, which announced the principle of “separate but equal.” However, prior to *Brown* the Court had decided a series of cases – mainly striking down segregation in higher public education – that undermined *Plessy*’s holding.

<sup>15</sup> McConkie’s views are summarized (with sources) in Blake Ostler, “The Idea of Pre-existence in Mormon Thought,” *Dialogue: A Journal of Mormon Thought* 15:1 (Spring 1982): 59, 72.

<sup>16</sup> B.H. Roberts, “The Immortality of Man,” in *B.H. Roberts Scrapbook*, vol. 2., comp. Lynn Pulsipher (Provo, Utah: Pulsipher Publishing, 1991), 21, 26.

<sup>17</sup> Orson Pratt, “The Holy Spirit,” in *The Essential Orson Pratt*, ed. David Whittacker (Salt Lake City: Signature Books, 1991).

<sup>18</sup> Blake Ostler, “Re-visioning the Mormon Concept of Diety,” *Element: A Journal of Mormon Philosophy and Theology* 1:1 (Spring 2005).

<sup>19</sup> For an extremely influential version of this interpretation see John A. Widtsoe & Leah D. Widtsoe, *The Word of Wisdom: A Modern Interpretation* (Salt Lake City: Deseret Book, 1937).

<sup>20</sup> See Thomas Alexander, “The Reconstruction of Mormon Doctrine,” in *Line Upon Line: Essays on Mormon Doctrine*, ed. Gary James Bergera (Salt Lake City: Signature Books, 1989), 53.

<sup>21</sup> See D. Michael Quinn, “On Being a Mormon Historian (And its Aftermath),” in *Faithful History: Essays on Writing Mormon History*, ed. George D. Smith (Salt Lake City: Signature Books, 1992), 69.

<sup>22</sup> Hence this essay.

<sup>23</sup> For a discussion of Heber J. Grant’s involvement in temperance politics and Prohibition, see Loman Franklin Aydelotte, “The Political Thought and Activity of Heber J. Grant, Seventh President of The Church of Jesus Christ of Latter-day Saints,” (Master’s Thesis, Brigham Young University, 1965).

<sup>24</sup> See Leonard Arrington, “The Word of Wisdom: An Economic Interpretation,” *BYU Studies* 1 (1959): 37. Arrington argues that Brigham Young emphasized compliance with the Word of Wisdom as a way of dealing with excessive imports of tobacco and other products from outside of Utah.

<sup>25</sup> Dworkin, *Law’s Empire*, 227-228 (substituting the term “the discovery of Church Doctrine” for “law” and “authorities” for “politicians”).

<sup>26</sup> Dworkin argues that there are right answers to inherently contestable legal question in Ronald Dworkin, “Is There Really No Right Answer in Hard Cases,” in *A Matter of Principle* (Cambridge, Massachusetts: Harvard University Press, 1985), 119.

<sup>27</sup> Robert Cover made an analogous legal point about the interaction of institutions and interpretation, arguing for what he called a jurispathetic theory of law. On Cover’s theory, citizens produce a vast welter of interpretations about what their laws require. The role of the courts is to kill off some of these interpretations

in order to resolve concrete disputes. Ironically, Cover used – inter alia – the example of Mormon interpretations of the constitution. See Robert Cover, “Nomos and Narrative,” 97 *Harvard Law Review* 4 (1983): 51 (“The long process leading up to Utah’s statehood was, from the Mormon perspective, an exploration of the degree of resistance required by religious obligation and the realities of power.”).

<sup>28</sup> See Nathan B. Oman, “A Defense of the Authority of Church Doctrine,” *Dialogue: A Journal of Mormon Thought* 40:4 (Winter 2007): forthcoming.

<sup>29</sup> To be clear, I do not claim that the discussion offered above exhausts the issues presented by the interaction of personal judgment and authority, or even that it answers all of the most pressing questions raised by it. Rather, my claim is that it puts to rest the notion that following Church Doctrine is intellectual or morally lazy, involving an abdication of personal judgment. Such judgment is always necessary.

