

Legal Trials of the Prophet: Joseph Smith's Life in Court



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From my years of research and work on the Joseph Smith Papers Project, I have gained a deeper appreciation of Joseph's achievements, despite intense and unrelenting adversity. Among his other tribulations was the fact that his ministry was shadowed by many persistent legal prosecutions. Anyone who has been through even one lawsuit knows how all-consuming it can be. It can demand your time, assets, body and mind.

So far we've found over two hundred total suits involving Joseph Smith—whether as a defendant, plaintiff, witness or judge. (Yes, as Mayor of Nauvoo, he was also a Justice of the Peace and Chief Magistrate of the Nauvoo Municipal Court.) That makes an average of about fourteen cases per year. As best we can tell, he endured an average of one lawsuit per month during most of his ministry!

Brigham Young said that he had to defend himself in forty-eight criminal cases, including many personally involving Brigham—but that Joseph was never convicted in any of them. We believe that this count of criminal cases against him is quite accurate. We'll focus mainly on some criminal charges that took his liberty, his assets and ultimately his life. Knowing that *not once* was he found legally guilty of *any* charges against him has strengthened my own faith and regard for Joseph Smith—the man and the Prophet. This is a unique way to tell the history of the Church through lawsuits and court records.

From the time of his First Vision, Joseph said he got used to “swimming in deep water.” This was also true of his experience with the law. The Lord told him at the start of his ministry: “Be patient in thine afflictions for thou shalt have many. But endure them, for lo I am with thee, even unto the end of thy days.”¹ Also: “Be firm in keeping the commandments ... and if you do this, behold I grant unto you eternal life, *even if you should be slain.*”² Finally: “And even if they *do unto you as they have done unto me*, blessed are ye, for ye shall dwell with me in glory.”³ These verses connected him to the Lord himself. But how is that for a mission call?

The legal charges and trials of Joseph began almost before his ministry began, and they continued for many years after it ended.

New York/Pennsylvania Cases

His first criminal case came in 1826, near “Harmony” Pennsylvania (one of several oxy-morons in Church history) when Joseph was age twenty-one year *before* he received the gold plates from Moroni. This case is still thought by some detractors to have come out badly for him. There are three accounts of the case. Two were by observing M.D.s, neither of whom was especially favorable to

Joseph. Another came from the judge's own notes, as published some fifty years later—during the peak of the LDS anti-polygamy hysteria. According to that version, Joseph was arrested but jumped bail, was re-arrested and then jailed for two days. When he was tried, he was found guilty and either exiled or allowed to escape by the arresting constable.

In 1970, some papers were found in the basement of a New York jail that are cited as partial justification for this version. This case was brought on March 22, 1826 in South Bainbridge, Chenango County, New York, before Justice of the Peace Albert Neely. It was a “misdemeanor” and describes Joseph Smith as “the glass looker.” That wasn't the legal charge but was the justice's description of the case. The charge was apparently “falsely pretending to discover lost goods” by fraudulent means—under a local disorderly conduct statute in effect at that time.

We also have Constable DeZeng's cost bill for “serving warrant on Joseph Smith & 12 witnesses... Attending with the prisoner 2 days...16 miles of travel... and a mittimus to take him.” This does not say whether the constable had taken him to or from the trial.

In Joseph's own account, he and his father hired out to a man in that area named Josiah Staal. The gentleman had an old map for Spanish treasure and needed help finding it. He had heard that the Smiths were hard workers and that Joseph had some supernatural gifts. Mother Smith's history said that after a month of working without success, Joseph convinced his employer to give up the search. While they didn't discover buried treasure, Joseph did find his greatest treasure—his wife. While living with the Isaac Hales, neighbors of Mr. Staal, he met and married their oldest daughter, a dark-haired beauty named Emma. Meanwhile, Joseph was sued under a complaint brought by Staal's nephew, charging that Joseph had been cheating his uncle.

A second published account of the trial kept by Dr. Purple said that Joseph was simply arrested and kept overnight for trial: After Joseph, his father and other witnesses had testified, Josiah Staal was called to be the key witness against Joseph. Instead, Staal turned the tables and came to Joseph's defense. Since under New York law at that time only Staal could complain that he had been cheated, Joseph had to be acquitted and discharged. Gordon Madsen, the leading authority on that case, has several other persuasive reasons why we should go with that version.

The next year, Joseph received the gold plates from Moroni, on 22 September 1827. We know that the first 116 pages of translation were taken by Martin Harris to show other persons and were lost. The following year, 1828, brought a very strange lawsuit against Joseph—by the very person most thought to have stolen the pages. That would be Martin's wife, Lucy. We won't try to discuss that very interesting case in detail here, except to say that it turned out about like the first case involving Josiah Staal. So we will next move on to perhaps the most notorious and disruptive of all the cases in the New York/Pennsylvania period.

It was actually two cases. They came just two months after Joseph had published the Book of Mormon, organized the Church and performed the first baptisms in upstate New York. In June, he and Oliver Cowdery were back in the Harmony, Pennsylvania, area. While they were at the Joseph Knight farm for the baptism of Emma, the whole Knight family and other Colesville saints, about fifty vigilantes tore down the dam in an effort to prevent these baptisms. It was rebuilt and that ordinance was completed. But before any confirmations could occur, Joseph was arrested and taken again for trial. The arresting constable was part of a conspiracy to do some harm to Joseph

along the way. But as often happened, he was so impressed by Joseph, that rather than slowing down the wagon as it approached a clump of trees at a bend in the road, he whipped the horses into a faster pace, escaping the would-be assailants who were lying in wait. As they were pulling away from the mob, however, a wagon wheel came off. They worked fast to get it back on and barely eluded their pursuers. After a hot pursuit, they arrived at the inn where court would be held the next day. That was in South Bainbridge, Chenango County, New York—just like his first suit in 1826. Ebenezer Hatch, the constable, got Joseph safely into an upper room and gave him the bed. Then the constable slept on the floor with a loaded musket by his side and his feet propped against the door all night, so that Joseph could get a little sleep.

Trial was to begin at 10:00 AM the next day. As usually happened, Joseph had to depend on friends to finance this lawsuit. Joseph Knight hired as legal counsel two farmer neighbors of his—James Davidson and John Reid—who also moonlighted as attorneys. These men were not LDS but did become lifelong friends of Joseph. As before, the charge was disorderly conduct, this time including: “setting the country in an uproar by preaching the Book of Mormon.” This case went fourteen hours, until about midnight. About twelve witnesses testified against Joseph and several on his behalf, including Josiah Staal. In the end, Justice Chamberlain declared Joseph not guilty.

But it wasn’t over yet. He was immediately seized by some “fiends from hell” (his attorney’s words), and a less sympathetic constable. He was rudely thrust into a wagon and driven fifteen miles to neighboring Colesville, Broome County. He was given bread and water for food and handcuffed to the constable, who yanked him hard every time Joseph stirred during the night. So he had less sleep and very little food. Trial once again started the next day at 10:00 AM. This case was apparently tried before three justices of the peace on similar charges—plus the additional disorderly conduct of receiving “pretended angelic visitations” and “casting out a devil.” That last charge involved the first miracle of the Restoration, performed for the benefit of Newell Knight. He was actually called as a witness. The questioning went something like this:

“Is it true that JS cast the devil out of you?”

Knight answered, “No sir. ... It was the power of god.”

“Well, did you see the devil?”

“Yes.”

“Will you please tell the court what the devil looks like?”

“Let me first ask a question of you. Do you believe in spiritual things not visible to the human eye?”

“No sir, of course not. I’m a lawyer.”

“Well, then, it would do no good to describe the devil to you, for such things are only spiritually discerned.”

This became an eighteen-hour trial, with some thirty to forty witnesses against Joseph Smith. They literally scoured the countryside to round up anyone with a grievance against Joseph. The trial apparently went all night, ending about 4:00 AM the next day.

As in the prior case, nothing was proven and, according to the lawyers, Joseph was again acquitted. But it still wasn't over. A mob had assembled and was waiting outside the inn, ready to administer their own "rough justice." So the parties retired to a back room and hatched a plan. One attorney and the constable (now more repentant) went out front to engage the mob. The other attorney opened the rear window to let Joseph and Oliver out into the night, with the judges' acquiescence. They fled through the woods, running all fifteen miles home, where they arrived exhausted.

Despite Joseph's success in court, sadly the Hales believed some malicious lies about him. In the end, they disowned both Joseph and Emma. So they left Pennsylvania and traveled to the Peter Whitmer Farm in upstate New York. Emma would never see her parents again in this life.

Later that year, extra-legal persecutions increased in New York and they left the entire state. On New Year's Day 1831, the Lord commanded Joseph "Go to the Ohio. There, I will give unto you my law and you shall be endowed with power from on high."⁴

Ohio Cases

By February 1831, Joseph and the entire church in New York had moved to Kirtland, Ohio. What success did he have in court there? Actually, they had a great deal—until the last two years.

In Ohio Joseph brought or defended some sixty-six varied civil or criminal suits, including some Kirtland Temple Committee cases. These ranged from performing marriages without a license to a case arising from Zion's Camp. Joseph also countered with his own suits: like slander, assault and battery. In August 1837, the year after the Kirtland Temple was dedicated, Joseph Smith, Sr., and eighteen others forcibly evicted an armed mob seeking to take it over. They were sued for riot and assault but were acquitted by J.P. Oliver Cowdery. Also, in January 1838, five men were acquitted of arson for burning the Church's printing press and book bindery near the temple. Joseph Smith did lose a few civil cases, including one for the return of consecrated property. Then with the depression and panic of 1837 came a plague of debt-collection suits. Finally, there came a case involving the most serious business disaster of his life—brought the last year they were in Ohio.

With credit in scarce supply, the saints formed their own bank, like many in the Western Reserve, to help ease the crunch. It was called the "Kirtland Safety Society" (another oxymoron). Like so many others, their bank failed. But unlike the others, the Mormons at the last minute were denied their banking license. They tried to stamp the word "*Anti*" before "*bank*," but that didn't work either. In 1837, a private action was brought for banking without a license. Before the case could be heard in October, legal and other persecution in Ohio rose to a new level.

On 27 July 1837, Joseph recorded that he was "detained all day by wicked and vexatious law suits." Apparently, he was sued on six separate charges—and tried on at least three of them—on the same day! (We haven't discovered them all, but most were probably civil debt collection cases.) At the end of the day, Joseph said:

About sunset, I got into my carriage to return home. At this moment, the sheriff sprang into our carriage, seized my lines, and served another writ on me...sworn out by a man who a few weeks previous had brought a new fashioned cooking stove to Kirtland...and wished me to test it for him. That man thought that now would be a good time to get paid for it. I gave my watch to the officer for security and we all returned home.⁵

From then on, he made a point of avoiding Painesville!

At the fall jury trial on the Kirtland Safety Society Case, Joseph and some prior bank officers apparently lost their case and appealed. Before it could be heard, however, the remaining saints had left *en masse* for Missouri. Ultimately, the private party who brought suit through a straw man recovered a judgment and took a lien on some assets, including the Kirtland Temple. It eventually came into RLDS hands, where it has remained to this day. The saints moved, but not to flee their debts. Of the more than \$52,000 owed by Joseph and the Temple Committee, over 90% was paid—even after Joseph left Ohio and abandoned his beloved temple in January 1838.

Missouri Cases

So now it's on to Missouri. In a word, that state was extralegal. There was a complete breakdown of all legal processes at every level. Until the end, no suits were brought against Joseph Smith or the saints there—because they didn't have to. There are many reasons for trouble in Missouri. One of the precipitating causes was that the Latter-day Saints were mostly northerners in a slave state.

Opposition came to a head in July 1833, when W.W. Phelps published in the *Evening & Morning Star* at Independence a complete set of legal requirements for bringing freed slaves into the state. The locals considered this an affront to their culture. It was the last straw, on top of their other grievances. Although the Mormons had broken no law, they posed a dire threat. This called for “citizen action” by the older settlers. They destroyed the printing press, along with Editor Phelps' home. Bishop Edward Partridge was beaten, tarred and feathered, and dragged around town square. He never fully recovered from that brutality. (But the mob noted that no blood had been shed!)

Today, we call it mob rule. The locals called it “popular sovereignty” or “people in action.” All lawsuits by LDS were apparently brought in vain. The closest that Church members came to any legal success was after destruction of their newspaper. Both Partridge and Phelps brought suit. As usual, the mob claimed “self defense.” But this time the odds were against them: those two men against more than a hundred! Alexander Doniphan, their attorney, boldly defended the case—despite the risk of losing business from prominent non-LDS. The lawyers convinced the judge that these men had been wronged. So their clients “won” the case. But they were awarded only “one cent plus a peppercorn,” or nominal damages. It was the legal equivalent of an insult. (“We believe you, but we detest you. Now get out!”)

From Jackson County the saints were repeatedly driven further north—from Independence, Jackson County in 1833 to Clay County, to Ray County. Finally, they were legally “quarantined” to two newly formed counties, Caldwell and Daviess—the least populated part of the state. LDS were just seeking to live in peace. Feeling helpless and frustrated, they sometimes retaliated. This was seen by old settlers as taking the law into their own hands, claiming that God's law outranked the law of the land. This was called “The Mormon War of 1838.”

For three tumultuous months, events accelerated until the entire Mormon population was expelled from the state of Missouri. It started with the first election day at Gallatin, Daviess County—on my birthday, August 6, 1838. From a fracas just outside the polling place, there arose charges of riot and assault against Joseph and some twenty associates, who came to rescue what they thought

were several dead or wounded. While these defendants were out on bail, chaos and anarchy broke out—with house burnings and raids going both ways. Governor Boggs advised the Mormons that they must “fight their own battles.” So they did. But, of course, that made things even worse. The Battle of Crooked River was on October 25. After the mob (organized as a militia) captured some LDS men, the Mormons mobilized their own militia to rescue them. In the process, several LDS were killed, including David W. Patton, their leader and the President of the Quorum of the Twelve. But a militia member was also killed. This event, plus false affidavits from some top disaffected Church leaders, was enough for Governor Boggs to issue on October 27 the infamous extermination order to his militia in northern Missouri. (“We must treat the Mormons as enemies & exterminate or drive them from the state.”) Joseph urged all saints to gather at their headquarters in Far West. Most of them came, as requested, but some did not heed his call.

On October 30, 1838, about thirty saints lingered at Jacob Haun’s Mill, to get in the crops. Between twelve and eighteen LDS were massacred and buried in a common well. No mobber was ever tried for this deed.

The next day, the action shifted to Far West. On October 31 it was an armed camp, surrounded by some 2,500 militia. Through deception and betrayal, Joseph and others were arrested on those same election-day riot charges plus a few others—like murder, mayhem, and even treason (which was a non-bailable offense). After a series of hearings, many LDS were bound over to Jackson County—then Richmond, Ray County—and some to Liberty, Clay County (November 28), where there was a real jail. Meanwhile, Far West was disarmed and plundered for two days by the mob.

“Liberty Jail” (another oxymoron) was the low point in Joseph’s life and career. For almost six months, the entire First Presidency was incarcerated and helpless—the longest time he was in jail. They were abused and bereft. On one level, it was a physical dungeon—about as bad as it gets. But it also became a spiritual “temple prison.” There, Joseph Smith dictated a long (sixteen page) letter home, which is now canonized as D&C 121-123. Joseph feared for his life, but he also learned to take more control—to endure patiently, to tone down the rhetoric, to depend on the Lord and his most loyal friends.

So the saints were driven from Missouri. Who was in charge? A few apostles were in England on missions. Except for Parley P. Pratt, the rest were not in jail—essentially deemed irrelevant. It fell to Brigham Young to evacuate the saints. It was Eastward Ho, over the Mississippi River, in February 1839. They first went to Quincy, Illinois, until Joseph was allowed to escape in April, while changing venues in Missouri. Then as the heat and the mosquitoes came upon them, they settled in Nauvoo.

Illinois Cases

How did things go, legally, in Illinois? At first, very well! 1840 may have been the happiest year of Joseph’s life. Despite a lack of political success on a trip to Washington, D.C., for redress, then the death of his father that fall, Joseph was free, both from jail and from lawsuits. They had friendly neighbors, missionary successes abroad, the start of another temple and the building of a great city!

Much of this was made possible by the city’s incorporation under a very generous state charter. The state legislature granted the saints their own militia—the Nauvoo Legion with about 3,000 men,

armed and dangerous. They were always ready for action but never really used. Also three separate branches of government: mayor, city council and court system (including the all-important power of *habeas corpus*. That made possible immediate court relief from improper arrests by his enemies. Nauvoo even had its own university. Essentially, it was a city/state!

One great key to obtaining this charter was John C. Bennett. He was very well connected with the state. He also gained Joseph's trust. Soon he became the Mayor of Nauvoo, University Chancellor, and major general in the Legion. He was even an acting "Assistant President" But he was a villain in disguise—"Joseph's Judas." He exploited his positions to seduce some Mormon women. In mid-1842, he was excommunicated by Joseph, who assumed those positions. Bennett left Nauvoo, resolved to destroy Joseph Smith and the Church in Illinois. This was the beginning of internal corrosion in Illinois. After Bennett's absence, the movement was headed by William Law, Joseph's own counselor. The week before he died, the *Nauvoo Neighbor* reported that Joseph said: "[A]ll the sorrow he ever had in his family had arisen through the influence of William Law."

From the outside, however, all seemed to be tranquil and in good order at first. The Mormons helped to elect a young governor, Thomas Ford, in 1841. At first Ford seemed much better than the prior Missouri governors, even better than prior Illinois Gov. Thomas Carlin.

Judicially, the saints also had some strong support. When the old charges from Missouri followed Joseph to Illinois, Justice Stephen A. Douglas in 1841 freed Joseph from an attempt to extradite him back to Missouri. Afterwards, Joseph gave him a blessing and also a prophecy: "Judge, you will aspire to the presidency of the United States;... but if ever you turn your hand against me or the Latter-day saints, you will feel the hand of almighty upon you. You will live to see this [happen] and this conversation will stick with you through life." He later turned against the saints when they were in Utah and most needed a friend in Congress. In 1860 he ran for the Presidency. But he finished fourth in a field of four (won by Abraham Lincoln, also from Illinois). He died one year afterwards in poverty and broken health.

Not all cases turned out well for Joseph Smith. In the case that Elder Oaks and I researched for ten years, Joseph and Hyrum Smith in September 1840 guaranteed a business obligation to acquire a steamboat from Captain Robert E. Lee, then with the U.S. river engineers. This was to be one of the first commercial enterprises in Nauvoo. But before the \$5,000 debt came due the next year, the boat was sunk by two hired pilots. This greatly contributed to Joseph's own financial ruin in Illinois. Although he and several other Church leaders filed bankruptcy, only Joseph did not receive a discharge. The United States had obtained a judgment against him and a lien attached to all his assets (including all Church property he held as Trustee-in-trust during his lifetime). The lien was foreclosed to pay this debt some eight years after Joseph's death. Originally, the sole charge was fraud, based on allegations from John Bennett. But none was ever found, nor could there be, and the case was resolved on other grounds.

In 1843 the same U.S. attorney who opposed Joseph's bankruptcy—Justin Butterfield—also defended him before the same judge in another famous extradition case. In May 1842, Missouri Governor Boggs was shot and Joseph was arrested as an accomplice. The case was heard in the Springfield court house, before Judge Nathaniel Pope. The court room was so crowded that the judge invited some women (including Mary Todd Lincoln) to sit by him on the stand. The attorney's opening line

was this: “If it please the court, I come before the Pope, in the presence of these angels, to defend the prophet of the Lord.” And he did!

Joseph’s main focus to the end of his life was building the magnificent temple in Nauvoo. It was only about half completed when he died in 1844. One of the high points of his life came two months before his death. The April General Conference was held in a grove near the temple. Joseph said those were “the greatest, best and most glorious five consecutive days ever enjoyed by this generation.”⁶ He preached with power and clarity. Later, he said, from Temple Hill, “This is the loveliest place and the best people under the heavens; little do they know the trials that await them.”⁷

Just days later, Joseph had to excommunicate a trio of brothers (the Laws, Fosters and Higbees) and some others, including his own counselor William Law. They formed their own Reformed Church, with William at the head. These and other dissidents then brought many suits, not only to harass Joseph but also to roust him out of his safe haven at Nauvoo.

Exactly one month to the day before the martyrdom, Joseph was in Carthage staying at the Hamilton Hotel. It was May 27, 1844, before a hearing on two grand jury indictments for slander and adultery. Said Joseph: “If a man commit adultery, he cannot receive the celestial kingdom of God.”⁸ Earlier that month, the Nauvoo municipal court convicted some of these apostates of crimes against Joseph. So they appealed these cases and filed several others with the County Circuit Court in Carthage. While staying at the Hamilton Hotel (the only hotel in town), Joseph learned of a plot to kill him after the hearing. The case was put over to the next month, for lack of a witness. As Joseph left town, he was well armed and escorted. His enemies learned much from this experience. In one month, they would apply it well. And the Hamilton Hotel would become the mortuary of Joseph and Hyrum.

Next, these enemies tried another approach. They acquired a printing press. It was partly to recruit members to their new church by exposing the “gross evils” of the Smiths. Their other stated purpose was to publish *The Nauvoo Expositor* until it provoked its own destruction. Said Francis Higbee, one of the publishers: “This city is done the moment a hand is laid on this press.... They can date their downfall from that very hour and in 10 days, no Mormon will be left in Nauvoo.”⁹ The one and only issue was published on June 7. For three days, the City council deliberated. Based upon legal advice and their understanding of the law in effect at that time, Joseph ordered the press to be suppressed. That was done very peaceably—unlike the riotous destruction of the Mormon press earlier in Missouri. Two days later, a “wrathy constable” from Carthage came to arrest Joseph and the entire City Council on a writ of disturbing the peace. The case was heard by the Nauvoo Municipal Court on a *habeas corpus* and all defendants were discharged. That same day, the *Warsaw Signal* called for reprisals and extermination of the LDS leaders.

On the advice of the presiding state judge for that district, the case was completely re-tried on its merits, by Daniel H. Wells, a non-Mormon living just outside of Nauvoo and a well-regarded state judge. All were acquitted after a full-day’s trial. Immediately, Thomas Sharp’s *Warsaw Signal* urged the extermination of all Mormons in Illinois.

This call to arms triggered a huge reaction. It started with the apostates, was fanned by the media, and was led by many political, religious and business leaders who had lost votes, followers, money

or economic control to the Mormons. Old enemies also came over from Missouri, bringing cannon and other arms.

The final winding-up scene was now near. Downstate militia with reinforcements from Missouri began attacking saints in some outlying settlements. They also threatened to invade Nauvoo. Joseph urged Governor Ford to come and help him keep the peace. Meanwhile, he declared martial law in Nauvoo, to preserve some sense of order—a logical but ultimately fatal step.

Finally, Governor Ford did come...but to Carthage, not Nauvoo. He apparently sided with enemies of the Church. He deplored the *Expositor* suppression, considering the Mormons to be the aggressors and insisting that they disarm or face extermination. (No such demand was laid upon their enemies.) He also insisted that Joseph and the entire City Council come to Carthage for trial—alone and unarmed. Joseph now had few options left to him. He could do as the governor ordered. Or he could go east to Washington, D.C., and appeal to the president. The scripture says to “importune at the feet of the governor and if he heed them not, importune at the feet of the president.”¹⁰ Joseph actually wrote a letter to President John Tyler, and planned to go east. That night, he said another plan became clear to him. He should escape to the west. He told the saints that their enemies only wanted him and Hyrum. The saints would be safe if he and Hyrum were gone. So on Saturday, June 22, they crossed the Mississippi River to start the trip west. But they returned on Sunday, June 23, after their friends accused him of cowardice. Said Joseph, “if my life is of no value to my friends, it is of none to me.” Joseph was depressed as he agreed to submit to Governor Ford’s orders, which included a pledge of full protection and the honor of the state of Illinois.¹¹

All fifteen defendants came to Carthage, unarmed. En route, they had their last stop in freedom at my great-great grandfather’s farm, just four miles outside of Carthage. There he told the family and his associates: “I am going like a lamb to the slaughter; but I am calm as a summer’s morn. I have a conscience void of offense towards God and towards all men. I shall die innocent, and it shall yet be said of me—he was murdered in cold blood.”¹²

Joseph appeared in the new Courthouse on Tuesday, June 25, where he had been one month before. (One year later, the trial of the accused was also held there.) Bail was easily posted for the charge of disorderly conduct: But before they left town, he was served with another writ and a new charge without a hearing—treason (probably for declaring martial law without official consent). For that charge, there could be no bail. Joseph and Hyrum must go to jail.

By Wednesday, June 26, some of their companions were sent on errands and couldn’t get back in. The governor finally came to meet with Joseph. They debated the merits of the *Expositor* case. Ford promised to take Joseph with him to Nauvoo if he went there the next day. That night, Captain Frank Worrell (in charge of the Carthage Greys) prophesied, “Before the sun goes down tomorrow, the blood of Joseph and Hyrum Smith will spill on this ground.” Nonetheless, Ford left town on the morning of Thursday, June 27, without Joseph, as promised. Instead, he took the most neutral of all the troops. He disbanded most hostile Warsaw militia outside of town and left the Carthage Greys to guard the jail!

Soon after 5:00 PM on Thursday, June 27, a mob of 150 to 200 in disguise attacked the jail. After mock shouts of “surrender,” the Greys fired overhead or shot blanks, then joined the mob. They ran

up the stairs to the criminal cell at the head, but it was empty. So they next ran down the hall to the jailor's bedroom.

They shot off the latch and shot through the door. Hyrum was the first to fall, standing directly behind the door. Joseph ran to his side, then toward the door with his pistol in hand.

All they had for their defense were two pistols that friends had smuggled into the jail. Hyrum's single-shot was never fired. Joseph's six-shot pepperbox misfired twice. But he also fired it four times in defense of his comrades. Said John Hay twenty-five years later (he was from nearby Warsaw and afterwards Teddy Roosevelt's Secretary of State):

Joseph Smith stood bravely by the door jamb & fired 4 shots, bringing his man down every time. He shot an Irishman named Wills in the arm (there for his natural love of a brawl), a Missourian named Gallagher in the face; Voorhees (a hobbledehoy) in the shoulder, and another man—whose name I choose not to mention, as he has an alibi and besides stands six feet two in his moccasins.¹³

Although it has been said that one of these men died from wounds inflicted by Joseph, that has never been established to my satisfaction.

Next the mob pushed inside. John Taylor rushed to the window, drawing fire away from his friends. He was shot first in the back and felt himself going out. Then he was shot twice in front, throwing him back inside. He crawled under the bed, saving the life of the future third President of the Church. His shattered pocket watch was stopped at 5:17. The whole affair took place in less than four minutes.

Joseph was the next to try this. He was shot first in front then in the back, in reverse order. His last words were, "O Lord, my God." Someone yelled, "he's lept the window." The mob ran back down the stairs, where Joseph was shot again. Willard Richards was the only one not injured, fulfilling an earlier prophecy of Joseph: "The time would come that balls would fly around him like hail, and he should see your friends fall on the right and on the left, but that there should not be a hole in his garment."¹⁴ But Willard heard the mob returning and thought he was sure to be next. Just then there was a cannon shot in the distance and a cry from the young rooftop-sentinel (William Hamilton, son of the innkeeper Artoise): "The Mormons are coming." The cannon shot was actually a signal that the deed was done. Young William entered the cell, then brought his father to help. This was the only real kindness shown to them in Carthage. The Hamiltons did not leave town like all the rest.

Joseph and Hyrum were taken back to the Hamilton Hotel. In the Hancock County court house vault, Elder Oaks and I found this poignant invoice from Artoise Hamilton: "JS lodging 2 days (2 horses & 2 dogs), 18 men & horses, funeral expenses, caring for the bodies. \$44."

On Friday, June 28, the bodies were washed and loaded into two wagons for their last trip home (about six hours). There, on Saturday, June 29, they lay in state, viewed by thousands of saints. Joseph and Hyrum were buried that same day in a rainstorm, as the heavens wept. "In life they were not apart, and in death they were not separated."¹⁵

The last official LDS involvement was John Taylor's affidavit, naming sixty potential assassins. A non-Mormon grand jury indicted nine of these the next year. Of those indicted, the four wounded by Joseph had fled the jurisdiction, leaving only five prominent men to stand trial in June 1845.

Those five defendants were all well-known Warsaw leaders: Thomas Sharp, Levi Williams, Mark Aldrich, William Grover, and Jacob Davis. So there was a politician, another lawyer, a minister, two businessmen and a newspaperman.

The trial took just six days. After a brief deliberation by the non-LDS jury, all five defendants were acquitted for insufficient evidence. Twenty-five years later, John Hay said, “There was not a man on the jury, in the court or in that county who didn’t know the defendants had done murder. But it was not proven, and the verdict of not guilty was right under the law.”

Joseph Smith was persecuted in courts of law as much as anyone I know. But he was never found guilty of any crime, and his name cannot be tarnished in that way.

Brigham Young said: “I do not think that a man lives on the earth that knew him any better than I did; and I am bold to say, Jesus Christ excepted, no better man ever lived or does live upon this earth.”¹⁶ Though known for good and evil in all the world, Joseph was the first to gain his exaltation in this dispensation. The Lord considered him faithful to the end. I believe he died as a better man than he began. This is what the Lord told him less than a year before he died:

For I am the Lord thy God, and will be with thee even unto the end of the world and thru all eternity; for verily *I seal upon you your exaltation*, and prepare a throne for you in the kingdom of my Father, with Abraham your father. Behold, I... will forgive all your sins; I have seen your sacrifices in obedience to that which I have told you to do.¹⁷

Brigham also said in the 1859 October Conference:

Joseph Smith holds the keys of this dispensation. ... No one in this dispensation will ever enter into the celestial kingdom of God without the consent of Joseph Smith. ... Every man and woman must have the certificate of Joseph Smith, Jr. as a passport to their entrance into the mansion where God and Christ are. I cannot go there without his consent [and neither can you].¹⁸

So to the Prophet and Seer, we say—“Praise to the Man...who communed with Jehovah... millions shall know Brother Joseph again.” He is now in a better place, where “traitors and tyrants now fight him in vain.”

Notes

¹D&C 24:8.

²D&C 5:22, emphasis added.

³D&C 6:30, emphasis added.

⁴D&C 38:33.

⁵Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 2 (Salt Lake City: Deseret Book Company, 1978), 502; 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* (Champagne/Urbana, Illinois: University of Illinois Press, 1988), 57.

⁶Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 6 (Salt Lake City: Deseret Book Company, 1978), 326.

⁷Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 6 (Salt Lake City: Deseret Book Company, 1978), 554.

⁸Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 6 (Salt Lake City: Deseret Book Company, 1978), 81.

⁹Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 6 (Salt Lake City: Deseret Book Company, 1978), 447, 451.

¹⁰D&C 101:87-88.

¹¹Official Illinois regrets were stated on April 6, 2004.

¹²D&C 135:4.

¹³*Atlantic Monthly*. 1869.

¹⁴Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, Vol. 6 (Salt Lake City: Deseret Book Company, 1978), 619.

¹⁵D&C 135:3.

¹⁶Brigham Young, "A Knowledge of God, Etc.," *Journal of Discourses*, reported by G.D. Watt 3 August 1862, Vol. 9 (London: Latter-Day Saint's Book Depot, 1862), 332.

¹⁷D&C 132:49-50, emphasis added.

¹⁸Brigham Young, "Intelligence, Etc.," *Journal of Discourses*, reported by G.D. Watt 9 October 1859, Vol. 7 (London: Latter-Day Saint's Book Depot, 1860), 289; Joseph F. McConkie and Robert L. Millet, *Joseph Smith: The Choice Seer* (Salt Lake City: Bookcraft, 1996), xxvi-xxvii.