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1842

*Joseph Smith,
John C. Bennett, and the
Extradition Attempt*

*A*s a careful study of Joseph Smith's journal shows, the months between December 1841 and March 1843 were busy ones for the Prophet. While much of his time was spent on ecclesiastical affairs, numerous other issues demanded his attention as well. This paper provides a brief overview of the Prophet's activities during this fifteen-month period, followed by more detailed discussions of two issues that dominated Joseph's life during this time. These were, first, John C. Bennett's estrangement from the Church; and second, Joseph's and his friends' efforts to keep him out of the hands of the Missourians after he was charged with being accessory to the May 1842 assassination attempt on

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former Missouri governor Lilburn W. Boggs. This paper draws heavily on research conducted under the auspices of the Joseph Smith Papers Project, and we want to thank our colleagues—particularly Dean Jessee, Richard Anderson, David Grue, and Kay Darowski and her team of researchers—for all their help in bringing together much of the information presented here.

Joseph in Nauvoo, 1842

Numerous references throughout Joseph’s journal to buying and selling land reflect the frontier nature of Nauvoo as well as the growth of the Church. Consistent with the doctrine of “gathering,” Church members from the eastern states, Canada, and England had settled in and around Nauvoo by 1842; in January 1843, Joseph estimated that some twelve thousand lived in the area. Many of these lived on land purchased from Isaac Galland and brothers William and Hugh White following the expulsion of the Saints from Missouri in 1839. Joseph also contracted with Connecticut land speculators Horace R. Hotchkiss, John Gillet, and Smith Tuttle for an additional five hundred acres on the “Flats” near the Mississippi River. Under the terms of the contract, the Latter-day Saints were to have immediate use of the land, but no deeds were to be issued until the land was paid for. Among other methods, Joseph hoped to make the required payments for the land by selling lots to those moving into the city. Speculators also courted Joseph and other Church members to purchase land in nearby areas like Warren, Warsaw, Ramus, and Shokokin, leading to similar land contracts in some of these places. Other land speculators, however, who owned land on the “Hill” or the “Bluff” east of the Flats were able to sell that land at a lower price than Joseph, threatening his ability to meet the terms of his real estate contracts.

Joseph was also heavily involved with building the Nauvoo Temple and the Nauvoo House—the latter intended to be a hotel where “strangers may come from afar to lodge, . . . [where] the weary traveler may find health and safety while he shall contemplate the word of the Lord” (Doctrine and Covenants 124:23). Donations from Church members funded the construction of the temple, which was built on a bluff overlooking the Flats, while money for the Nauvoo House was to come through selling stock in the project according to guidelines received by revelation. Having been commanded by God to build the two structures, Joseph viewed both as of paramount importance; also, as the duly appointed trustee-in-trust for the Church, he was legally accountable for the building funds, which added urgency to the situation. In spite of a hearty response from many Church members, both undertakings suffered from a lack of capital and occasional mismanagement on the part of the committees overseeing them. Both projects also suffered from the competition of private developers’ projects. The same economic jealousies between the Flats and the Hill that plagued Joseph’s efforts to pay off land debts hindered the temple and the Nauvoo House. Addressing workers’ concerns, improving the methods for collecting funds, and keeping the Saints on task with these construction projects occupied no small amount of Joseph’s time and energy. On more than one occasion he publicly denounced developers like Robert Foster, Amos Davis, and Hiram Kimball, whose private land sales and business enterprises were seen as an impediment to accomplishing larger Church goals.

Other concerns vied for Joseph’s attention as well. By the end of 1842, Joseph and Emma had four living children to support and raise, ranging from eleven-year-old Julia to four-year-old Alexander. One means of providing for his family was

his red brick store. While he seems to have spent relatively little time directly managing or operating the store, journal entries indicate his continued involvement with stocking the store with hard-to-find goods. Similarly, while he turned his farm over to Cornelius Lott for management, any given day in the summer might find him riding the three miles out of Nauvoo to visit Lott and hoe potatoes. Both enterprises—the store and the farm—as well as Joseph’s other business concerns and the building projects he oversaw as trustee for the Church, were significant factors in the overall economy of Nauvoo. “Let me assure you,” wrote Emma to Illinois governor Thomas Carlin in August 1842, “that there are many whole families that are entirely dependent upon the prosecution and success of Mr Smiths temporal business for their support.”¹

A large part of Joseph’s time was taken up with managing the details of a number of enterprises. For example, most of 1842 he served as editor of the Church’s newspaper, the *Times and Seasons*. As lieutenant general of the Nauvoo Legion, Joseph was ultimately responsible for training, staffing, and supplying some three thousand troops of the Illinois militia. As a city councilman and then, after May 1842, the mayor of Nauvoo, he spent several hours most weeks drafting ordinances, discussing proposals, and attending city council meetings. As a councilman he was required to serve as a justice on the appellate municipal court, and as mayor he served occasionally as judge of that court and as chief justice of the mayor’s court. Cases involving charges of slander, assault, petty thievery, and disorderly conduct were the usual bill of fare for these courts, although more specialized and technical cases occasionally appeared, including the *Dana v. Brink* medical malpractice suit. The forty-one manuscript pages of Joseph’s journal dedicated to recording the graphic testimony of the witnesses in this trial—which involved a case of

childbirth—probably reflect his scribe’s professional interest in the details more than Joseph’s. The scribe was Willard Richards of the Twelve, who had practiced medicine. With the journal’s numerous references to legal precedence, haggling over expert witnesses, and technical language, it also illustrates how well versed Joseph and his associates needed to be, and were, in the law.

Through all this, Joseph continued to direct and oversee important developments in the Church. These included publishing the book of Abraham and the first pages of his history as well as writing two lengthy letters detailing how baptisms for the dead were to be recorded—all of which have since been accepted into the standard works of the Church. Building on Sarah M. Kimball’s efforts to create a women’s charitable organization, Joseph at this time also organized the “Female Relief Society of Nauvoo.” Charging the society with “searching after objects of charity, and . . . correcting the morals and strengthening the virtues of the female community,”² Joseph appointed his wife Emma to preside over the organization. Joseph also revealed new temple ordinances to a few trusted associates during this time.

By December 1841, Joseph had revealed the doctrine of plural marriage to his closest associates and was practicing it himself. Contemporary sources, reminiscent accounts, and later affidavits indicate that he took a number of plural wives over the course of the next two years. It was probably inevitable that some of the people to whom Joseph revealed the doctrine of plural marriage would misunderstand or reject it—several pieces of information, for example, suggest the practice was at least partly behind Sidney Rigdon’s and George Robinson’s estrangement from Joseph during this time. It was also probably inevitable that some of Joseph’s confidants would abuse Joseph’s

understanding of plural marriage. This abuse often took the form of men seducing women by telling them that Joseph had sanctioned extramarital affairs—a charge Joseph strenuously denied. Among those who “made use of his name to carry on their iniquitous designs”³ was John C. Bennett, general in the Nauvoo Legion, a prominent Mason, first mayor of Nauvoo, and one-time member of the First Presidency. While Joseph’s journal and other documents indicate that the Prophet initially sought to resolve the problem privately, mounting evidence of Bennett’s rascality eventually brought the city council, the Nauvoo Legion, and the Masonic lodge into the picture. Faced with censure from all quarters, Bennett fled Nauvoo and launched a smear campaign against Joseph through the pages of the *Sangamo Journal* and other newspapers. Most prominent among those who took Bennett’s accusations seriously was Elder Orson Pratt, whose wife, Sarah, accused Joseph of making improper advances toward her during her husband’s absence.

Along with misrepresenting Joseph’s intentions regarding plural marriage, Bennett joined others in charging the Prophet with masterminding the May 6, 1842, assassination attempt of Lilburn W. Boggs, who had ordered the removal of the Mormons from Missouri in 1838. Initially appearing as editorials and letters in newspapers, these accusations eventually led to formal legal charges being leveled against Joseph and formal requests to the governor of Illinois and Iowa Territory that Joseph, if captured, be extradited to Missouri for trial. Having barely survived his most recent encounter with Missouri justice and not daring to trust himself in the hands of the Missourians a second time, Joseph accordingly spent a good part of the last five months of 1842 hiding in and around Nauvoo.

The Fall of John C. Bennett

Bennett's fall from grace began shortly after he moved to Nauvoo in August 1840, when Joseph received a letter "from a person of respectable character" in Ohio who lived "in the vicinity where Bennett had lived."⁴ The letter warned Church officials that their new convert, ostensibly a bachelor, was "a very mean man" who had a wife and children in McConnelsville, Morgan County, Ohio. Joseph, "knowing that it is no uncommon thing for good men to be evil spoken against," tried to keep the matter quiet but was apparently forced into confronting Bennett with it after the latter began courting a young lady in Nauvoo. Only after Joseph threatened to publicly expose him, however, did Bennett end the relationship.⁵

Seeing that Joseph, at least, was suspicious of his marital status, Bennett took his amorous designs underground. Failing in his efforts to convince unsuspecting women that promiscuity "was a doctrine believed in by the Latter-Day Saints," Bennett tried to convince them that "the authorities of the church"—including Joseph—"not only sanctioned, but practiced" it themselves. The argument proved to be an effective one, Joseph wrote, with Bennett eventually seducing several women "by the same plausible tale."⁶

Meanwhile, in July 1841, Joseph received a letter from his brother Hyrum and William Law, who presented further evidence of Bennett's wife and children and the "ill-treatment" they had received at his hands. Bennett "candidly acknowledged" the truth of the letter's contents, then attempted suicide by taking poison. An antidote saved his life but did little to bring about the "thorough reformation in his character" that Joseph was hoping for. Adding to the "aggravating nature of this case," Joseph wrote, Bennett's statement that Joseph sanctioned illicit relationships had convinced other men "to persue the same

adulterous practice” and to make use “of the same language insinuated by Bennett” to convince unsuspecting women of the propriety of what they were doing. Faced with a growing body of evidence from victims and perpetrators alike, mortified that Joseph’s name was being invoked to justify the deeds, and “seeing no prospects of any satisfaction from his future life,” the First Presidency, nine members of the Quorum of the Twelve, and the Presiding Bishopric quietly withdrew the hand of fellowship from Bennett on May 11, 1842.⁷

“Some four or five days” later, William Law informed Bennett concerning the Church leaders’ action. “He plead with me to intercede for him,” Law wrote, “assuring me that he would turn from his iniquity, and never would be guilty of such crimes again.—He said that if he were exposed it would break his mother’s heart—that she was old, and if such things reached her ears it would bring her down with sorrow to the grave.” Moved by Bennett’s pleas, Law asked Joseph to “spare Bennett from public exposure, on account of his mother.”⁸

A similar scene played itself out shortly afterward on May 17, 1842, when Hyrum Smith learned of Bennett’s continuing perfidy, including evidence that he had promised to give his victims “medicine to produce abortions, providing they should become pregnant.” “On becoming acquainted with these facts,” Hyrum wrote, “I was determined to prosecute him, and bring him to justice.” Learning of Hyrum’s intentions, Bennett tearfully pleaded with Hyrum not to expose him, then asked Joseph for the same favor.⁹ “On account of his earnestly requesting that we would not publish him to the world,” Joseph wrote later, “we concluded not to do so at that time, but would let the matter rest until we saw the effect of what we had already done.”¹⁰ Concerned with how Bennett had been using his name to convince men and women alike of the correctness

of his actions, however, Joseph required Bennett at this time to make a sworn deposition to the effect that he, Bennett, had never known Joseph to teach or practice anything contrary to the highest standards of virtue. Bennett immediately repaired to city alderman Daniel H. Wells, where, in the presence of William Clayton, Hyrum Smith, and Wells, he “stood at the desk” and wrote “that he was never taught any thing in the least cantrary to the strictest principles of the Gospel, or of virtue, or of the laws of God, or man, under any occasion either directly or indirectly, in word or deed, by Joseph Smith; and that he never knew the said Smith to countenance any improper conduct whatever, either in public or private;” and that Joseph had never taught him or anyone else that illicit relationships were, “under any circumstances, justifiable.” Joseph accepted the statement and agreed to keep silent.¹¹

Bennett resigned as mayor the same day and also confessed his sins in the Masonic lodge later in the afternoon. “He seemed to be very penitent and wept much,” Hyrum recorded. “His penitence excited sympathy in the minds of the brethren, and they withdrew the charge for the time being.”¹² A similar confession followed two days later in the city council—the same day Joseph was elected as mayor—when Bennett again defended Joseph’s character, expressed his desire to continue his association with the Saints, and looked forward to the time, he said, “when I may be restored to full confidence, and fellowship, and my former standing in the church.”¹³

Even as Bennett was proclaiming his loyalty to Joseph and the Church, however, evidence was accruing that he had been expelled from a Masonic lodge in Ohio before moving to Nauvoo. The evidence was reviewed in a special lodge meeting on June 16, 1842, at which time it was determined that the lodge in question was the Pickaway lodge. At the meeting, however,

Bennett presented laudatory character references from men in Ohio dated about the time of his alleged expulsion and claimed that he had never been informed of his expulsion from Pickaway lodge. Choosing to err on the side of caution, the Nauvoo lodge postponed his case until more testimony could be gathered. By July 7 the Nauvoo lodge became “fully satisfied” that he had been expelled from Pickaway and summarily expelled him as a Mason for falsely claiming Ohio membership and for being unworthy of fellowship. When additional charges against Bennett’s character and activities were substantiated over the course of the following month, the action was confirmed and elaborated upon, with Bennett being expelled from the Nauvoo lodge “and from all the priviledges of Masonry” for seduction, adultery, using Joseph Smith’s name to justify immoral acts, perjury, embezzlement, and seducing a master mason’s wife.¹⁴

Long before the lodge took action against him, however, Bennett had skipped town and begun attacking Joseph and the Church through the press. In his letters, Bennett claimed that Joseph, not he, had been the immoral one and that he had left the Church because of the wickedness of the Saints. Bennett also claimed that the statements he had made defending Joseph’s character had been made under duress and in the face of threats.¹⁵ Joseph responded to Bennett’s defection quietly at first by simply publishing a short “Notice” on the last page of the June 15, 1842, issue of the *Times and Seasons* announcing that Church leaders had withdrawn the hand of fellowship from Bennett on May 11.¹⁶ The following issue—that of July 1—called forth a lengthy account of Bennett’s rascality and Joseph’s efforts to reform him, Bennett’s May 17 affidavit and May 19 statement before the city council, and excerpts from letters that “gentlemen in this city” had received from various correspondents regarding Bennett’s less-than-savory

character.¹⁷ Bennett's claims about being under duress when he defended Joseph's character and that he had left the Church before being excommunicated brought forth additional affidavits and testimonials in the August 1 issue of the *Times and Seasons* explicitly denying the charges.¹⁸

The 1842 Extradition Attempt

At the same time Bennett's true colors were making themselves publicly known, events of a far more sinister aspect were coming to a head. On the evening of May 6, 1842, an unknown assailant shot Lilburn W. Boggs, former governor of Missouri, as he sat in his home in Independence, Missouri.¹⁹ Eight days later, on May 14, news of the event reached Nauvoo, apparently with the erroneous report that Boggs had been killed in the attack.²⁰ Joseph Smith's enemies in the area were quick to connect him with the attack. The same day Joseph heard about it, for example, David Kilbourn—a presbyterian merchant, land speculator, and lawyer with ties to John C. Bennett—wrote to Missouri governor Thomas Reynolds accusing Joseph of complicity in the assassination attempt and calling for his arrest.²¹ One week later, on May 21, Sylvester M. Bartlett, editor of the *Quincy Whig*, addressed the issue in the pages of his paper: "There are several rumors in circulation in regard to the horrid affair," wrote Bartlett. "One of which throws the crime upon the Mormons—from the fact, we suppose, that Mr. Boggs was governor at the time, and no small degree instrumental in driving them from the state.—Smith too, the Mormon Prophet, as we understand, prophesied a year or so ago, his death by violent means. Hence, there is plenty of foundation for rumor."²² Joseph was quick to deny the charge, complaining by letter to the *Whig's* editor the following day of the "manifest injustice" he had done him. "He died not through

my instrumentality,” wrote Joseph, pointing out that Boggs might simply have been the victim of political intrigue. “I am tired of the misrepresentation, calumny and detraction heaped upon me by wicked men,” Joseph added, “and desire and claim only those privileges guaranteed to all men by the Constitution and Laws of the United States and Illinois.”²³

The issue might have died there had not John C. Bennett kept it alive in letters published in the *Sangamo Journal* on July 15. “In 1841,” reported Bennett, “Joe Smith predicted or prophesied in a public congregation in Nauvoo, that Lilburn W Boggs, ex-Governor of Missouri, should die by violent hands within one year. From one or two months prior to the attempted assassination of Gov. Boggs, Mr. O. P. Rockwell left Nauvoo for parts unknown to the citizens at large. I was then on terms of close intimacy with Joe Smith, and asked him where Rockwell had gone? ‘Gone,’ said he, ‘GONE TO FULFILL PROPHECY!’” Bennett provided affidavits from other individuals to the same effect, openly acknowledging his “determination . . . [to] arouse the public indignation” against Joseph, “if there is yet virtue and courage left in man.”²⁴

Authorities could do nothing on the basis of the circumstantial evidence and rumor provided by Kilbourne, Bartlett, Bennett, and others. But when Boggs himself—who fully recovered from the attack—signed an affidavit on July 20 accusing Joseph of being “accessary before the fact of the intended murder” and requesting Governor Reynolds to extradite Joseph to Missouri for trial, officials from Illinois and Missouri sprang into action.²⁵ Acting on Boggs’s affidavit, Reynolds signed a requisition on July 22 requiring Illinois governor Thomas Carlin to deliver Joseph to Missouri for trial.²⁶ Concerned for Joseph’s well-being, “about eight hundred, or upwards” of the citizens of Nauvoo signed a petition that same

day urging Carlin not to issue a writ for Joseph “to be given up to the authorities of Missouri” but to try him in Illinois if he really thought the Prophet may have committed the crime.²⁷ Carlin received the Saints’ petition on July 26 but chose to honor Reynolds’s requisition instead, issuing a writ for Joseph’s arrest on August 2.²⁸

Reynolds’s requisition, based on Boggs’s affidavit, was ill-conceived. Extradition, as defined in the Constitution, requires that one be charged with committing a crime in one state and then fleeing to another.²⁹ Boggs’s affidavit, upon which the extradition proceedings were based, accused Joseph of being “accessary before the fact” and identified him as “a citizen or resident of the State of Illinois” but failed to accuse him of actually committing a crime in Missouri and then fleeing to Illinois. Without such an accusation, Reynolds had no constitutional grounds for calling on Carlin to deliver Joseph to Missouri for trial—meaning, in effect, that Carlin’s arrest warrant for Joseph was not issued on legal grounds.

Six days after Carlin issued his warrant, Thomas King of Adams County and two other officers showed up in Nauvoo with the warrant in hand and arrested Joseph Smith and Orrin Porter Rockwell, “the latter being charged with shooting ex-Governor Boggs of Missouri with intent to kill . . . and Joseph with being accessory.”³⁰ The municipal court immediately convened and issued a writ of habeas corpus.³¹ Unsure of the authority of the municipal court’s writ in this particular case, King and his men left Joseph and Rockwell in the custody of Henry G. Sherwood, Nauvoo city marshal, and returned to Quincy with the arrest warrant to seek instructions from Carlin.

Without the arrest warrant in his possession, Sherwood had no legal authority to retain Joseph and Rockwell in custody. Neither man was anywhere to be found when King returned

two days later. Convinced, apparently, that “Governor Carlin’s course which he had pursued was unjustifiable and illegal” and that “the whole business [was] but another evidence of the effects of prejudice,”³² both men had gone into hiding—Rockwell back east to Pennsylvania and New Jersey, and Joseph in various locations in and around Nauvoo.³³ King, no doubt furious with this new development, reportedly “endeavored to alarm sister Emma & the Brethren by his threats, but could not do it they understanding the nature of the Law in that case.”³⁴ The sheriff and his men remained in the area for several days, “utter[ing] heavy threats . . . that if they could not find Joseph they would lay the city in ashes,” William Clayton reported. “They say they will tarry in the city a month but they will find him.”³⁵

Joseph first stayed at the home of his uncle John Smith in Zarahemla, across the river from Nauvoo, in Iowa Territory. Pursuant to instructions from Joseph, on the night of August 11, Emma, Hyrum, William Law, Newel K. Whitney, George Miller, William Clayton, and Dimick B. Huntington rowed out to the island between Nauvoo and Montrose to meet with the Prophet and Erastus H. Derby. There it was decided that Joseph should “abide for a season” at the home of Edward Sayers, some distance upriver from Nauvoo on the Illinois side.³⁶

Joseph stayed at Sayer’s home six days. After accidentally meeting Martin Henderson Harris, nephew of Martin Harris, while getting some exercise in the woods and then hearing of rumors in Nauvoo that his hiding place had been discovered, Joseph retired to Carlos Granger’s home in the northeast part of Nauvoo on the night of August 17.³⁷ Here he remained another six days, when he received a “few lines from sister Emma informing him that she would expect him home this evening believing that she could take care of him better at home than

elsewhere.” Joseph accordingly left Granger’s home “soon after dark” on August 23 and arrived home “without being noticed by any person.”³⁸

Joseph kept a low profile for several more days, meeting with members of the Twelve and a few others at his home or in the red brick store.³⁹ After another six days, however, he felt sufficiently secure to make an unannounced appearance at a special conference on August 29. “The brethren were rejoiced to see him,” recorded William Clayton. “He had not been seen for three weeks and his appearance amongst the brethren under present circumstances caused much animation and joy, it being unexpected. Some had supposed that he was gone to Europe and some to Washington. . . . Every one rejoiced to see him.” As he addressed the conference, Joseph called for volunteers to go out and disabuse the public mind concerning his character—a call some three hundred and eighty answered immediately.⁴⁰

Five days later, however, Joseph was back on the run. The day began with the Prophet entertaining former Apostle John Boynton in his home, when a note was brought in from David Hollister, who was acting as an informant of sorts for Joseph, “to the effect that the Missourians were again on the move.” Shortly after noon, three officers showed up at Joseph’s house, having apparently reached it undetected by “com[ing] up the river side and hitch[ing] their horses below the Nauvoo House and then proceed[ing] on foot.” While Boynton stalled for time, Joseph, who had been eating lunch with his family, “passed out at the back door and through the corn in his garden” to the red brick store, where Newel K. Whitney’s family was living at the time. By this time Emma was talking with the officers, who insisted on searching the house even though they had no search warrant with them. Joseph remained at the red brick store until nine that evening—thereby avoiding another search conducted

at his home “soon after Sun down”—after which he retreated to the home of Edward Hunter, “where he was welcomed and made comfortable by the family.”⁴¹

The following day, Sunday, Joseph sent William Clayton a letter he had written September 1, shortly after his unexpected conference appearance. Pursuant to Joseph’s request, the letter—which outlined procedures for how baptisms for the dead were to be recorded—was read to the Saints assembled in the grove near the temple.⁴²

The week Joseph remained in hiding was not an idle one. Several trusted friends, such as Brigham Young, Heber C. Kimball, William Clayton, and Newel K. Whitney dropped by for instruction. George Adams and David Rogers delivered several letters from Saints in the east, including one from Willard Richards. Joseph dictated a lengthy letter to Mormon sympathizer James Arlington Bennet in New York and dictated a “long Epistle to the Saints” on September 7, which provided further instruction about recording baptisms for the dead and which he “ordered to be read next sabbath.”⁴³ Emma, Wilson Law, Amasa Lyman, and George A. Smith paid him a visit after dark on the evening of September 9.⁴⁴ The following day was one of the designated “training days” for the Nauvoo Legion, during which Nauvoo swarmed with people. After spending the day “very close and still; lest on account of the quantity of people passing two and fro he should accidently be discovered,” Joseph received word from Emma “that she wished him to come home, as she thought he would be as safe at home as any where for the present.” Heeding his wife’s request a second time, Joseph arrived home after dark “safe and undiscovered.”⁴⁵

Joseph slowly came out of hiding over the course of the next four weeks, although a lingering sickness of Emma kept him at home a good part of the time. Gathering rumors that “many of

the Missourians were coming to unite with the Militia of this State” to search for him, however, sent him off to the home of James Taylor—John Taylor’s father—after dark the evening of October 7.⁴⁶ There he remained—except for one brief visit to his family⁴⁷—until October 28, when, “from the appearance of things [things] abroad” he was “encouraged to believe that his enemies wont trouble him much more at present” and moved back home.⁴⁸

Joseph’s first big break on the extradition issue came several weeks later, when Stephen A. Douglas recommended to several of Joseph’s associates that Joseph petition Thomas Ford, the newly elected governor of Illinois, to revoke former governor Carlin’s arrest warrant for Joseph. Taking Douglas’s advice, Joseph’s associates asked U.S. district attorney Justin Butterfield to prepare the petition, which he did, at the same time remarking, William Clayton recorded, that “[Joseph’s] arrest was based upon far weaker premises than he had previously supposed, inasmuch as the affidavit of Ex Gov. Boggs said nothing about Joseph having fled from justice, . . . and the constitution only authorizes the delivery up of a ‘fugitive from Justice to the Executive authority of the State from which he fled.’”⁴⁹ Unsure of his authority to revoke an act of the previous governor, Ford consulted with six justices of the Illinois Supreme Court concerning Joseph’s petition. The justices, Ford wrote to Joseph, “were unanimous in the opinion that the requisition from Missouri was illegal and insufficient to cause your arrest, but were equally divided as to the propriety and Justice of my interference with the acts of Governor Carlin.” Ford, playing it safe, declined to revoke Carlin’s writ and recommended that Joseph “submit to the laws and have a Judicial investigation” into his rights.⁵⁰ In a letter to Joseph, Butterfield confirmed Ford’s report of the justices advice and

recommended that Joseph immediately come to Springfield, where the charges against him were sure to be discharged by habeas corpus either through the Illinois Supreme Court or the U.S. Circuit Court currently in session.⁵¹

Joseph and several trusted friends complied with Butterfield's request. The party arrived in Springfield on December 30 with Joseph in custody of Wilson Law, who had arrested him four days earlier on the authority of Carlin's Proclamation—an executive order of sorts that Carlin had issued September 20, 1842, giving any citizen the right to arrest Joseph.⁵² Unsure of where Carlin's original writ for Joseph's arrest was and not wanting to leave any room for Joseph's enemies to make a competing arrest on the authority of that writ, Joseph petitioned Ford the following day for a new writ for his arrest, which was promptly granted. Joseph was then arrested on the authority of this new writ by William F. Elkin, sheriff of Sangamon County.⁵³ This placed him, for the time being, in custody of both Elkin and Law, and secure from arrest by someone in possession of Carlin's original warrant.

In the meantime, Butterfield had decided that since this habeas corpus hearing dealt with extradition and since extradition was a constitutional concern, the federal U.S. Circuit Court was the most appropriate venue for it. Disregarding Ford's earlier suggestion that Joseph's hearing be held before the Illinois State Supreme Court, Butterfield petitioned Nathaniel Pope, judge of the U.S. Circuit Court then in session in Springfield, that Joseph be allowed a hearing there and that he also be released on bail. Pope agreed to both, appointing Monday, January 2, for the hearing and setting Joseph's bail at \$4,000.⁵⁴

Joseph's presence in Springfield did not go unnoticed by her citizens, nor by members of the state legislature then in

session. As Joseph and his party came “to the head of the stairs” after leaving Judge Pope, for example, “some man observd there goes Smith the prophet and a good looking man he is. & (said another) as damnd a rascal as ever lived. . . . & any one that takes his part is as damed a rascal as he is.” Wilson Law retorted, “I am th[e] man. & I take his part.” The confrontation quickly turned into a name-calling match and was moving outside into the street when the marshal interfered and restored order.⁵⁵ Later in the day, the Illinois House of Representatives effected an impromptu adjournment when a team of horses spooked and went clattering down the road past the State House, and someone yelled, “Joe Smith is running away.”⁵⁶

Joseph spent the remainder of Saturday, December 31, conversing with friends and new acquaintances on topics ranging from the Nauvoo Legion to the Nauvoo Charter. A good part of Sunday was spent in worship services held in the hall used by the House of Representatives. The following day, Monday, which had been set aside for Joseph’s habeas corpus hearing, opened with Josiah Lamborn, the state attorney, requesting the hearing be pushed back a day. Pope scheduled it for Wednesday, January 4, giving Joseph and his associates another two days of downtime.⁵⁷ These were spent in conversation, as well as in watching the state Senate in action. While Joseph’s thoughts on the Senate’s activities are unknown, it is clear that this latter activity afforded Willard Richards no small entertainment. This was especially so when it came to watching the antics of Edward D. Baker, a senator from Sangamon county. The “Senator. appears much like an african Monken [Monkey],” Richards recorded, “at <one> moment standing by one stove. the next by another on the opposite side of the chamber. setting down in every senators chair in his way & he never gooes out of his way for his way is every where & and his nose in every mans

face. eating apples staring at & pointing & staring at every one, . . . a monkey without a monkey's wit."⁵⁸

The hearing, when it was finally held, went relatively smoothly. The only real opposition was provided by state attorney Josiah Lamborn, who argued, first, that extradition was a state matter and that this federal circuit court therefore had no jurisdiction in this case; and second, that it was inappropriate in a habeas corpus hearing—which is simply a review of the arresting documents—to ask whether Joseph was in Missouri when Boggs was shot because that was delving into the evidence concerning guilt or innocence that could only be heard in a trial. Butterfield challenged Lamborn's objections by arguing that extradition was a federal matter, and therefore the federal court had jurisdiction, and that discussing Joseph's whereabouts was not an attempt to establish guilt or innocence but simply to point out that Joseph had not committed a crime in one state and then fled to another as extradition requires. Butterfield then pointed out the illegality of the documents—especially Boggs's affidavit—used to arrest Joseph, which said nothing about Joseph having fled from justice in Missouri. Lamborn's rebuttals were weak at best, Richards recorded, with the state attorney "apparently saying littl[e] more than the natu[r]e of his situation required—& no more than would be usefull in satisfying the public mind—that there had been a fair investigation—of the whole matter."⁵⁹

In his decision given the following day, Pope agreed with Butterfield's arguments and discharged Joseph.⁶⁰ The five-month-long ordeal ended with Joseph and his party leaving Springfield for Nauvoo on January 7 in high spirits. On the journey home, Wilson Law composed a song, with the assistance of Willard Richards, for the occasion—sung to the tune of *Auld Lang Syne* and later known as the Mormon Jubilee—in which

he praised those who had had a hand in bringing the whole affair to a successful close. “And are you sure the news is true?” ran the opening verse,

And are you sure he’s free?
Then let us Join with one accord,
And have a Jubilee.

Chorus

We’ll have a Jubilee. my frie[n]ds
We’ll have a Jubilee
With heart & voice we’ll all rejoice
In that our Prophet’s free.⁶¹

Along with demonstrating the resiliency of Joseph and his associates, the 1842 extradition attempt also provides an important glimpse into the character and talents of Emma. Often a silent figure in Church history, Emma emerges from the background following a letter she received early on from Joseph instructing her on what to do should the need arise for them to flee to Wisconsin, as some of Joseph’s associates were urging him to do. Evidently following up on an earlier conversation, Joseph also advised Emma in this letter against personally visiting Thomas Carlin in Quincy: “You may write to him,” he wrote his wife, “whatever you see proper, but to go and see him, I do not give my consent at present.”⁶² Emma responded she was ready to go to Wisconsin if necessary, but that she was still confident that Joseph could “be protected without leaving this country.”⁶³

Emma then wrote a lengthy letter to the governor maintaining Joseph’s innocence and asking, even begging, him to recall the writs he had issued for Joseph’s and Rockwell’s arrest. “You must be aware that Mr Smith was not in Missouri, and of course he could not have left there,” she wrote, evidently

in an effort to draw Carlin's attention to the inappropriateness of extradition in this case.⁶⁴ Carlin wrote back that he was simply fulfilling his duty as governor to deliver fugitives from justice to the executives of other states, so long as those other executives have "complied with the requisitions of the act of congress in that case made and provided."⁶⁵ Emma responded, in a follow-up letter, that that was precisely the point—the "requisitions of the act of congress" regarding extradition had not been complied with in this case, as there was ample evidence that Joseph "was not in Missouri" when the crime was committed, and that therefore "he is not a fugitive from justice." "It only requires a knowledge of the constitution of the United States, and statute of the State of Missouri," Emma informed the governor, "and a knowledge of the outrages committed by some of the inhabitants of that State [Missouri] upon the people called Mormons, . . . to know that there is not the least confidence to be placed" in Boggs and other Missouri officials.⁶⁶

Choosing to take issue with another point Emma brought up—that of the legality of the municipal court's writ of habeas corpus in this case—Carlin sidestepped Emma's point about extradition in his response the following month. Nor would he acknowledge the very real threats that had been leveled against the Prophet in the past, writing that he had "not the most distant thought that any person in Illinois, or Missouri, contemplated personal injury to Mr Smith by violence in any manner whatever."⁶⁷ No record has been found of Emma responding to this second letter of Carlin.

In the end, Emma failed in her effort to persuade Carlin to recall the arrest warrant he had issued against her husband. In the correspondence surrounding that effort, however, one gets a rare glimpse into the personality and thoughts of

Joseph's wife. As her expressive and thoughtful letters show, she was a woman of extraordinary ability and temperament who understood the finer points of the complex issue and articulated an intelligent argument. Carlin himself, we are told, "expressed astonishment at the judgement and talent manifest in the manner of her address" after reading her first letter;⁶⁸ and while he was unwilling to concede any ground to Emma, one gets the distinct impression that when he closed his last letter to her "with sentiments of high regard and esteem," he really did mean it.⁶⁹

One also sees, in the brief correspondence between Joseph and his wife during this time, the degree to which the Prophet himself relied on her judgment and support—a degree of dependence perhaps too few over the years have appreciated. In Joseph's letter to Emma about writing to Carlin, for example, he addresses the recommendation of some of his associates that he flee alone to Wisconsin, where his family would later join him. "My mind will eternally revolt at every suggestion of that kind," Joseph wrote his wife. "My safety is with you. . . . Any thing more or less than this cometh of evil. . . . If I go to the Pine County, you shall go along with me, and the children; and if you and the children go not with me, I don[']t go."⁷⁰ Emma's judgment carried a lot of weight with Joseph during this stressful time. As we have already seen, for example, Joseph twice followed Emma's advice on when it was safe for him to return home from hiding. The Prophet's soliloquy on meeting Emma on the island is too well known to repeat here but is further evidence of how much he relied on his wife for comfort and support.

Conclusion

Joseph employed a number of different clerks during the Nauvoo years, one of whom, William Clayton, we have quoted above. We conclude with a lengthy description of Joseph that Clayton provided for his friends back in England shortly after arriving in Nauvoo in 1840. It stands as an important testimony of Joseph's prophetic calling during the last few years of his life and reflects our own sentiments about the prophet of the Restoration. "He is . . . a man of sound judgment, and possessed of abundance of intelligence," Clayton wrote, responding to the negative reports he and his readers had heard about Joseph,

and whilst you listen to his conversation you receive intelligence which expands your mind and causes your heart to rejoice. He is very familiar, and delights to instruct the poor saints. I can converse with him just as easy as I can with you, and with regard to being willing to communicate instruction he says "I receive it freely and I will give it freely". He is willing to answer any question I have put to him and is pleased when we ask him questions. He seems exceeding well versed in the scriptures, and whilst conversing upon any subject such light and beauty is revealed I never saw before. If I had come from England purposely to converse with him a few days I should have considered myself well paid for my trouble. He is no friend to iniquity but cuts at it wherever he sees it, & it is in vain to attempt to cloke it before him. He has a great measure of the spirit of God, and by this means he is preserved from imposition. He says "I am a man of like passions with yourselves," but truly I wish I was such a man.⁷¹

Notes

1. Emma Smith to Thomas Carlin, August 16 [17], 1842, recorded in Joseph Smith, Journal, August 21, 1842, Church History Library, The Church of Jesus Christ of Latter-day Saints, Salt Lake City.
2. Minutes of March 17, 1842, Relief Society Minutebook, 1842–1844, 7, Church History Library.
3. Joseph Smith, Journal, April 10, 1842.
4. “To the Church of Jesus Christ of Latter Day Saints, and to All the Honorable Part of Community,” *Times and Seasons*, July 1, 1842, 839.
5. “To the Church,” *Times and Seasons*, July 1, 1842, 839.
6. “To the Church,” *Times and Seasons*, July 1, 1842, 840.
7. “To the Church,” *Times and Seasons*, July 1, 1842, 840–41; “Notice,” *Times and Seasons*, June 15, 1842, 830.
8. “Affidavit of William Law,” *Times and Seasons*, August 1, 1842, 873.
9. “Affidavit of Hyrum Smith,” *Times and Seasons*, August 1, 1842, 870.
10. “To the Church,” *Times and Seasons*, July 1, 1842, 841.
11. “Affidavit of Hyrum Smith,” *Times and Seasons*, August 1, 1842, 871.
12. “Affidavit of Hyrum Smith,” *Times and Seasons*, August 1, 1842, 871.
13. “To the Church,” *Times and Seasons*, July 1, 1842, 841; see also Joseph Smith, Journal, May 19, 1842.
14. Nauvoo Masonic Lodge Minute Book, June 16, July 7, and August 8, 1842, Church History Library.
15. *Sangamo Journal*, July 15, 1842.
16. “Notice,” *Times and Seasons*, June 15, 1842, 830.
17. “To the Church,” *Times and Seasons*, July 1, 1842, 839–42.
18. “John C. Bennett,” *Times and Seasons*, August 1, 1842, 868–78.
19. Boggs served as governor of Missouri from 1836 to 1840.

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20. Joseph Smith, Journal, May 14, May 22, 1842.
21. David Kilbourn to Thomas Reynolds, May 14, 1842, in David Kilbourn and Edward Kilbourn, "Latter-Dayism, No. 1," *Hawk-Eye and Iowa Patriot*, September 30, 1841, [1].
22. "Assassination of Ex-Governor Boggs of Missouri," *Quincy Whig*, May 21, 1842, 3.
23. Smith to Bartlett, May 22, 1842, in *Quincy Whig*, June 4, 1842, 2.
24. John C. Bennett, letters, July 2 and 4, 1842, in *Sangamo Journal*, July 15, 1842.
25. Lilburn W. Boggs, Affidavit, Jackson Co., MO, July 20, 1842, Abraham Lincoln Presidential Library, Springfield, Illinois; also copied in Joseph Smith, Journal, December 9–20, 1842.
26. State of Missouri, Requisition of Thomas Reynolds, Jefferson City, Missouri, July 22, 1842, Abraham Lincoln Presidential Library, Springfield, Illinois; also copied in Joseph Smith, Journal, December 9–20, 1842.
27. Nauvoo City Council Minutes, July 22, 1842, 95–97, Church History Library.
28. Thomas Carlin to Joseph Smith, July 27, 1842, Joseph Smith Letterbook 2, Joseph Smith Collection, Church History Library; also copied in Joseph Smith, Journal, August 21, 1842. While the original warrant from Carlin has not be located, a copy of the warrant made by clerk James Sloan before the Nauvoo municipal court dates the original to August 2, 1842 (Thomas Carlin, Writ, Springfield, Illinois, August 2, 1842, copy by James Sloan, Nauvoo City, *Records, 1841–1845*, Church History Library).
29. U. S. Constitution, article 4, section 2.
30. Joseph Smith, Journal, August 8, 1842.
31. The Nauvoo city charter, which was ratified by the Illinois legislature in December 1840, granted authority to the municipal court to issue writs of habeas corpus "in all cases arising under the ordinances of the City Council" ("An Act to Incorporate the City of

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Nauvoo,” sec. 17, 55; “An Act to Incorporate the City of Nauvoo,” *Times and Seasons*, January 15, 1841, 283). Anticipating attempts by “enemies” of the Church to subject the citizens of Nauvoo to “illegal process,” the Nauvoo city council had passed an ordinance in July declaring that “no Citizen of this City shall be taken out of the City by any Writs without the privilege of investigation before the Municipal Court, and the benefit of a Writ of Habeas Corpus” (Nauvoo City Council Minute Book, July 5, 1842, 86–87, Church History Library). Along with issuing the writ of habeas corpus, the city council passed a statute on this date granting the Nauvoo municipal court the power to inquire into both proper procedure and merits of the case for any arrest warrant served in Nauvoo. The Nauvoo statutes were attempts to codify the broadest interpretation of the habeas corpus grant in the charter, with the goal to prevent the legal system from being used for “religious or other persecution” (Nauvoo City Council Minute Book, July 5, 1842, 98–99, Church History Library).

32. Joseph Smith, Journal, August 11, 1842.

33. Orrin Porter Rockwell per S. Armstrong, Philadelphia, PA, to JS, Nauvoo, IL, December 1, 1842, Joseph Smith Collection, Church History Library; Joseph Smith, Journal, March 13, 1843.

34. Joseph Smith, Journal, August 10, 1842.

35. Joseph Smith, Journal, August 13, 1842.

36. Joseph Smith, Journal, August 11, 1842.

37. Joseph Smith, Journal, August 17, 1842.

38. Joseph Smith, Journal, August 23, 1842.

39. Joseph Smith, Journal, August 24–28, 1842.

40. Joseph Smith, Journal, August 29, 1842.

41. Joseph Smith, Journal, September 3, 1842.

42. Joseph Smith, Journal, September 4, 1842. The letter was published in the *Times and Seasons*, September 15, 1842, 919–20, and is now Doctrine and Covenants 127.

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43. Joseph Smith, Journal, September 6–8, 1842. The September 7 letter to the Saints, incorrectly dated September 6 in the original manuscript and published sources, is now Doctrine and Covenants 128.
44. Joseph Smith, Journal, September 9, 1842.
45. Joseph Smith, Journal, September 10, 1842.
46. Joseph Smith, Journal, October 7, 1842.
47. Joseph Smith, Journal, October 20, 1842.
48. Joseph Smith, Journal, October 28, 1842.
49. Joseph Smith, Journal, December 9, 1842.
50. Thomas Ford to Joseph Smith, December 17, 1842, in Joseph Smith, Journal, December 9, 1842.
51. Justin Butterfield to Joseph Smith, December 17, 1842, in Joseph Smith, Journal, December 9, 1842.
52. Joseph Smith, Journal, 26, December 30, 1842, Church History Library; “Proclamation,” *Illinois State Register*, September 30, 1842, [3], and “Four Hundred Dollars Reward!” *Sangamo Journal*, September 30, 1842, [3]. For the authority Carlin’s proclamation gave to private citizens, see Joseph Smith, Journal, October 5, 1842.
53. Joseph Smith, Journal, December 31, 1842.
54. Joseph Smith, Journal, December 31, 1842.
55. Joseph Smith, Journal, January 4, 1843.
56. Joseph Smith, Journal, December 31, 1842.
57. Joseph Smith, Journal, December 31, 1842–January 2, 1843.
58. Joseph Smith, Journal, January 2, 1843.
59. Joseph Smith, Journal, January 4, 1843.
60. Joseph Smith, Journal, January 5, 1843.
61. Joseph Smith History, Draft Notes, January 7, 1843, Church History Library.
62. Joseph Smith to Emma Smith, August 16, 1842, copied in Joseph Smith, Journal, August 21, 1842. As noted below, Emma and others had delivered a petition to the governor in person on July 29 requesting protection for Joseph Smith.

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63. Emma Smith to Joseph Smith, [August 16, 1842], copied in Joseph Smith, Journal, August 21, 1842.

64. Emma Smith to Thomas Carlin, August 16, 1842, copied in Joseph Smith, Journal, August 21, 1842.

65. Thomas Carlin to Emma Smith, August 24, 1842, copied in Joseph Smith, Journal, September 3, 1842. Carlin was quoting from “An Act Concerning Fugitives From Justice,” January 6, 1827, in *The Revised Code of Laws, of Illinois, Enacted by the Fifth General Assembly* (Vandalia, Illinois: Robert Blackwell, 1827), 232–34. The “act of congress” that the Illinois law referred to is “An Act Respecting Fugitives from Justice, and Persons Escaping from the Service of their Masters,” February 12, 1793, in *The Public Statutes at Large of the United States of America, 1789–1799* (Boston: Charles C. Little and James Brown, 1845), 1:302–5.

66. Emma Smith to Thomas Carlin, August 27, 1842, copied in Joseph Smith, Journal, September 3, 1842.

67. Thomas Carlin to Emma Smith, September 7, 1842, copied in Joseph Smith, Journal, September 12, 1842.

68. Joseph Smith, Journal, August 21, 1842. Carlin read the letter in the presence of Judge James A. Ralston, a member of the Church living in Quincy.

69. Thomas Carlin to Emma Smith, September 7, 1842, copied in Joseph Smith, Journal, September 12, 1842.

70. Joseph Smith to Emma Smith, August 16, 1842, copied in Joseph Smith, Journal, August 21, 1842.

71. William Clayton to the Saints in England, December 10, 1840, in James B. Allen, “To the Saints in England: Impressions of a Mormon Immigrant,” *BYU Studies* 18, no. 3 (Spring 1978): 478–79.



Because of Joseph Smith and the authority restored to him, we know that the family unit can be preserved throughout the eternities. He taught how to prize the endearing relationships of father and mother, husband and wife; of brother and sister, son and daughter. Thus love truly becomes eternal. ("A Father's Gift," by Liz Lemon Swindle, courtesy of Foundation Arts, © 1998.)