

Joseph Smith's Iowa Quest for Legal Assistance

His Letters to Edward Johnstone and Others
on Sunday, June 23, 1844

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When Joseph and Hyrum Smith were threatened with arrest on June 22, 1844, they left Nauvoo, Illinois, and went across the Mississippi River in the very early morning hours of Sunday, June 23. As evidenced by the letters and records of that crucial day, Joseph and Hyrum were considering several options that pointed in divergent directions. Recently found sources give new information about a little-known and underestimated purpose for their midnight rowing across the Mississippi River to Montrose, Iowa—namely, to seek and retain the legal assistance of experienced lawyers necessary before submitting to a warrant requiring them to go to Carthage, Illinois.

From William Jordan's hilltop cabin outside of Montrose or in a makeshift camp nearby, Joseph made contact with Iowa lawyers that Sunday, including the prominent Edward Johnstone in Fort Madison, Iowa, and Joseph promptly received helpful replies from most of them. The history of this brief trip across the river has not been told from the perspective of his correspondence with Johnstone and other lawyers that watershed Sunday. These letters in search of legal counsel introduce the strong possibility that two of the main reasons why Joseph crossed the river were (1) to have a quiet place where he could contemplate and discuss his options without Church responsibilities and interruptions from a pressing stream of anxious friends and Illinois state officers in Nauvoo that Sunday, and (2) to have a convenient place in Iowa Territory from which he could request and be available to meet with Iowa lawyers living just upstream from Montrose in Fort Madison and Burlington, in order to secure their legal assistance in defending himself, his brother Hyrum, and

the members of the Nauvoo City Council against the state of Illinois; their appearance in court was required the very next day in Carthage. While Illinois lawyers were unlikely to be available on such short notice or to be willing to represent Joseph and his codefendants against the state of Illinois in this highly charged situation, Joseph had reason to believe he could find legal help in Iowa. He had won a court case in Iowa two years earlier against George Hinkle and was represented in that action by two highly regarded lawyers in Fort Madison.¹

From Montrose, Joseph dictated his letter addressed to Judge Edward Johnstone of Fort Madison on Sunday, June 23, 1844. The original letter, written down by Willard Richards on a half-sheet of foolscap paper and delivered promptly to Johnstone, was located by Gordon A. Madsen, who made contact with a descendant of Johnstone and arranged to have this document donated to the LDS Church Archives in 2002.² The text of this original manuscript (fig. 1), published here for the first time,³ reads:

Letter of Joseph Smith to Edward Johnstone, June 23, 1844

Sunday June 23 1844

Col — Johnson Esqu

Sir — I have to attend a case at Carthage

<State of Ill. Vs Joseph Smith Jr.>

tomorrow — at 12 noon = and especially request your attendance professionally, — without fail.

Yours Respectfully

Joseph Smith

Per W. Richards clerk —

1. District Court record for Lee County, Iowa, vol. 3, p. 173, docket entry approved by Judge Charles Mason on April 29, 1842, regarding *Joseph Smith v. George M. Hinkle*, in assumpsit, said plaintiff being represented by Alfred Rich and Lewis R. Reeves, attorneys, Microfilm reel Lee #396, item 1955799, in the State Archives of Iowa, State Historical Society of Iowa, Des Moines, Iowa.

2. The letter is now catalogued as MS 17391, folder 1, images 1–2, Church History Library, The Church of Jesus Christ of Latter-day Saints, Salt Lake City, and is available online at https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE11926378. I thank Gordon Madsen for sharing this information with me, and also the Church Historical Department for facilitating access and granting permission to publish this document.

3. Joseph Smith's letter to Johnstone was used and cited by Joseph I. Bentley in his article "Road to Martyrdom: Joseph Smith's Last Legal Cases," *BYU Studies Quarterly* 55, no. 2 (2016): 50, n. 153.

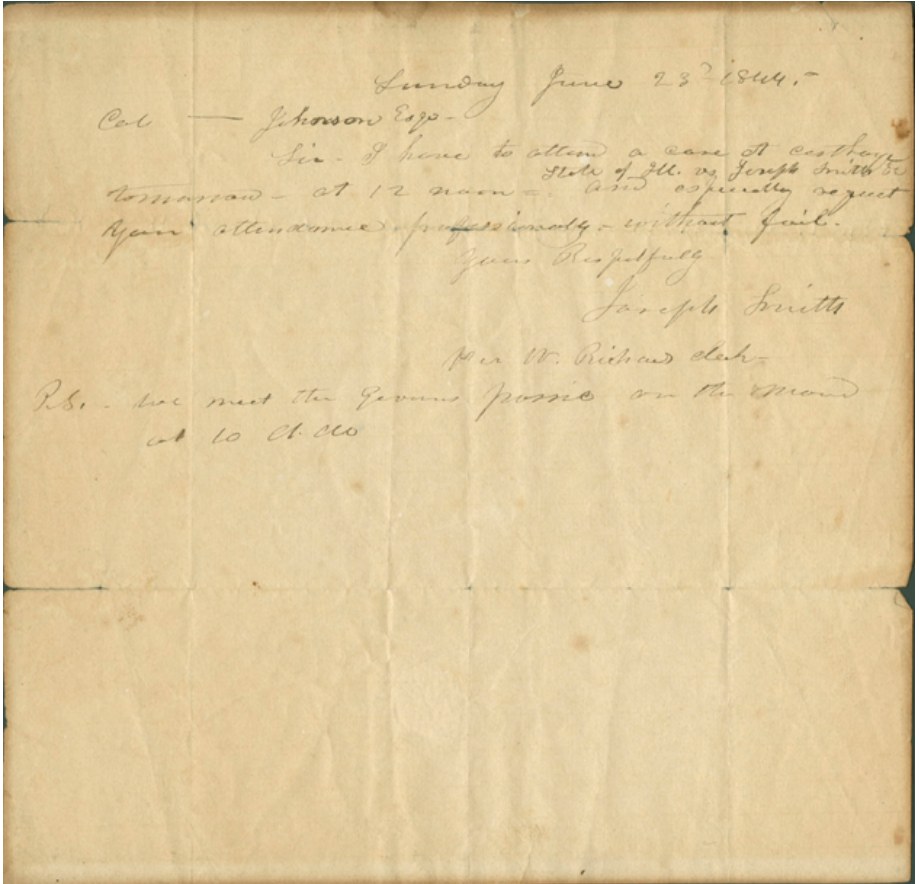


FIGURE 1. Letter of Joseph Smith to Edward Johnstone, June 23, 1844. Courtesy Church History Library, Intellectual Reserve, Inc.

PS. We meet the Governor's posse on the mound at 10 A.M.

[On reverse, written in different handwriting]
Letter of Joseph Smith Jr. the Mormon prophet to Edward Johnstone
then residing at Fort Madison, Iowa
From Jos Smith the prophet

In addition, in 2016, while working in the library of the State Historical Society of Iowa in Iowa City, I spotted a clipping of an article in which this letter from Joseph Smith to Johnstone was published in a newspaper in southeastern Iowa. It was placed among a cluster of newspaper clippings from around 1886. The clipping is undated and the name of the newspaper is unknown, but it appears to have been

published either in Fort Madison or, perhaps more likely, in Keokuk, Iowa, where Johnstone died in 1891. That newspaper article was written about forty years after the death of Joseph Smith by a reporter who had conversed at that time with Edward Johnstone, who had retained this letter, complete with its original red sealing wax, during all of those intervening forty years. Johnstone (or this reporter) believed the letter to be the last letter written by Joseph Smith before he was murdered four days afterward, on June 27, 1844, in Carthage, Illinois. This newly found newspaper clipping is published in full below (fig. 2). It is located in volume 8, pages 318–19, of the ten-volume unpublished scrapbook-history entitled “History of Keokuk,” recently deposited in the Caleb Davis Papers at the State Historical Society of Iowa library in Iowa City.

Although this letter was not the Prophet’s last written word (as the newspaper headline proclaimed), its discovery adds a few crucial details relevant to the motivations and timing of Joseph Smith’s activities and whereabouts on Sunday, June 23, four days before the martyrdom of Joseph and Hyrum on Thursday, June 27. The purpose of the following documentary study is to compile and reexamine all that is known from the contemporaneous manuscripts about the events on that decisive Sunday.⁴ In order to position this Johnstone letter historically, the information found in six key documents must be carefully examined, collated, and sometimes reconciled: (1) William Clayton’s 1844 record in the Council of Fifty minutes; (2) the history of Joseph Smith written in 1856 based on information given by Reynolds Cahoon, Orrin Porter Rockwell, and others who were with Joseph and Hyrum that day; (3) James Woods’s legal report published in *Times and Seasons* on July 1, 1844; (4) a second account given by James Woods in 1882; (5) Willard Richards’s journal entry for June 23, 1844; and (6) Vilate Kimball’s letter to her husband written June 11 and 24, 1844. As a result of this documentary research, it becomes clear that Joseph’s quest in Iowa on Sunday, June 23, 1844, to secure lawyers willing to represent him in court in

4. Several people have contributed to the development of this article. I thank my colleagues, law students, and research assistants at the J. Reuben Clark Law School at Brigham Young University; Jennifer Hurlbut, other editors, and interns at BYU Studies; and Jed Woodworth, who collaborated in preparing and presenting a preliminary version of this research in a session sponsored by BYU Studies at the 2017 annual meeting of the Mormon History Association. Their helpful contributions are acknowledged, but this final product reflects my opinions and conclusions alone.

Carthage needs to be factored prominently into any complete historical account of that day.⁵

Events Leading Up to the Writing of the Johnstone Letter

In order to understand and evaluate the significance of this letter to Edward Johnstone, the complicated events and situations leading up to June 23 need to be kept in mind. On Monday, June 10, Joseph, as mayor of Nauvoo, signed an order of the city council to destroy the press of the *Nauvoo Expositor*, which the city council felt was within the legal powers it had been granted under the Nauvoo Charter to abate public nuisances. That order was immediately carried out by Nauvoo officials that evening.

Anti-Mormons such as Thomas Sharp in Warsaw, Illinois, seized the opportunity to rouse the population around Nauvoo and threatened the Saints' lives and property. On June 14, Sharp publicized in his newspaper, the *Warsaw Signal*, his plans to confront the Smiths.⁶ Then a public meeting was held in Keokuk, Iowa, on June 18, scathingly condemning Joseph Smith and resolving to support the citizens of Hancock County, pledging to "give them any assistance they may require, or the law allows, to aid in the execution of the Laws of the land."⁷ The Keokuk resolution was published in the *Warsaw Signal* on June 19, the same day on which Joseph ordered a defensive picket guard to be posted on all the roads leading in and out of Nauvoo.⁸

5. This purpose is never mentioned in the historical treatments of this day in the life of Joseph Smith. For example, although the very detailed account given by Robert S. Wicks and Fred R. Foster, *Junius and Joseph: Presidential Politics and the Assassination of the First Mormon Prophet* (Logan: Utah State University Press, 2005), mentions James W. Woods several times as Joseph's non-Mormon lawyer, Hugh T. Reid and Henry T. Hugins remain unnoticed, and nothing is ever said about all three of them being Iowa lawyers.

6. "At a Mass Meeting of the Citizens of Hancock County," *Warsaw Signal*, June 14, 1844, copy in Church History Library, and in *History of The Church of Jesus Christ of Latter-day Saints*, ed. B. H. Roberts, 2d ed., rev., 7 vols. (Salt Lake City: Deseret Book, 1971), 6:462-66.

7. The next day, this full resolution was published in "At a Large and Respectable Meeting," *Warsaw Signal*, June 19, 1844. I thank Brooke LeFevre for locating this significant, but otherwise overlooked, news item.

8. "History, 1838-1856, Volume F-1 [1 May 1844-8 August 1844]," 122, Church History Library, <http://www.josephsmithpapers.org/paper-summary/history-1838-1856-volume-f-1-1-may-1844-8-august-1844/128>; *History of the Church*, 6:505.

On June 20, Joseph wrote letters preparing for the defense of Nauvoo against the growing mob,⁹ and on the night of Friday, June 21, Governor Thomas Ford sent a letter to Joseph Smith saying that Ford had come to Carthage to “preserve the peace” and that he wanted “to hear the allegations and defenses of all parties” related to the *Expositor* excitement.¹⁰ In response, on Saturday, Joseph sent John Bernhisel, John Taylor, and Edward Bonney to meet with Ford and fifteen or twenty men in Carthage. Joseph’s delegates, however, were interrupted and contradicted constantly in their attempt to present the affidavits they had collected.¹¹

They waited five or six hours that Saturday afternoon while the governor drafted yet another letter. It demanded the demobilization of the Nauvoo Legion and the arrest and trial¹² of Joseph Smith and many others regarding martial law and *Nauvoo Expositor* matters, with the trial to begin in Carthage on Monday.¹³ If they refused, the governor declared that “it will be considered by me as an equivalent to a refusal to be arrested and the Militia will be ordered accordingly.”¹⁴ The governor’s letter was filled with legal arguments, many of them new and novel.

Joseph received the second letter from Governor Ford on Saturday night and quickly wrote back at midnight¹⁵ that he dared not come to

9. “History, 1838–1856, Volume F-1,” 123–30; *History of the Church*, 509–20.

10. Thomas Ford to Joseph Smith, June 21, 1844, MS 155, box 3, folder 8, images 81–82, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE10507264 (scroll down in this collection to find images 81 and 82).

11. “History, 1838–1856, Volume F-1,” 133, 137, 145–46; *History of the Church*, 6:542–45.

12. Joseph Smith and others had already appeared before Aaron Johnson (June 12) and Daniel H. Wells (June 17) on charges related to the destruction of the *Expositor* and had been discharged. *History of the Church*, 6:453–58, 487–91.

13. See Bentley, “Road to Martyrdom: Joseph Smith’s Last Legal Cases,” 48–50.

14. Thomas Ford to Joseph Smith, June 22, 1844, MS 155, box 3, folder 8, images 106–15, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE10507264; “History, 1838–1856, Volume F-1,” 140–43; *History of the Church*, 6:533–37. This letter was one of several pieces of correspondence between Ford and Joseph Smith during these days.

15. Joseph’s letter to Ford written at 2:00 p.m. Sunday begins, “I wrote you a long communication at 12 last night.” Joseph Smith to Thomas Ford, June 23, 1844, MS 155, box 2, folder 8, image 74, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE429909.

Carthage because of threats against his life by armed men who were gathered at Carthage with the governor. Joseph stated again his legal explanations for the Nauvoo City Council's action against the *Nauvoo Expositor* and the reasons for mobilizing the Nauvoo militia, which was done in an organized manner and to protect the peace, in accordance with the Second Amendment to the Constitution of the United States.¹⁶

According to William Clayton's record, "The officers who [on Saturday night] brought the letter (thirty in number) told Joseph they should wait till tomorrow morning and if they [Joseph, Hyrum, and other accused men] were not then ready they [the officers] should wait no longer but return & tell the governor they were resisted &c."¹⁷ According to a different source, the posse (likely referring to the same posse) from the governor arrived early Sunday morning: "Early in the morning a posse arrived in Nauvoo to arrest Joseph; but as they did not find him they started back to Carthage immediately, leaving one man of the name of [Christopher] Yates behind them, who said to one of the brethren, that Governor Ford designed that if Joseph and Hyrum were not given up he would send his troops and guard the City until they were found, if it took three years to do it."¹⁸

James W. Woods,¹⁹ an attorney at law of Burlington, Iowa, representing Joseph, Hyrum, and the Nauvoo City Council, had arrived in Nauvoo on Friday, June 21, most likely at Joseph's personal request. Woods met with Joseph, Hyrum, and others on Saturday. On July 1, right after the martyrdom, Woods's detailed account of the preceding week was published, confirming and adding more information about the foregoing history:

16. Joseph Smith to Thomas Ford, June 22, 1844, copy, Church History Library, MS 155, box 2, folder 8, images 63–68, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE429909; "History, 1838–1856, Volume F-1," 143–45; *History of the Church*, 6:538–41.

17. Matthew J. Grow and others, eds., *Administrative Records: Council of Fifty, Minutes, March 1844–January 1846*, Joseph Smith Papers (Salt Lake City: Church Historian's Press, 2016), 197. James Woods's account, herein, confirms that the posse arrived Saturday night.

18. "History, 1838–1856, Volume F-1," 148.

19. James Woods (c. 1810–1886) practiced law in Virginia, Illinois, and Iowa Territory and had acted as legal counsel for Joseph Smith in May 1843. "Woods, James," Joseph Smith Papers, <http://www.josephsmithpapers.org/person/james-woods>. See also Susan Easton Black, "Esquire James Weston Woods: Legal Counsel to Joseph Smith," *Mormon Historical Studies* 4 (Fall 2003): 113–21.

At the request of the friends of Joseph and Hyrum Smith, I have consented to give a statement of such matters as I had a knowledge of in relation to their murder at Carthage, and what occurred under my observation.

I arrived in Nauvoo from Burlington, Iowa, on Friday, June 21, about 9 o'clock, P. M., found all things quiet, had an interview on Saturday morning the 22d, with Joseph and Hyrum Smith, who was in consultation with some of their friends in relation to a communication from Gov. Ford: during the interview *heard Gen. Joseph Smith give orders to disband the Legion and withdraw the guards and sentinels*, who were co-operating with the police to preserve the peace of the city, as he said by order of Gov. Ford; that I went from Nauvoo to Carthage on the evening of [that Saturday] the 22d, when I had an interview with Gov. Ford, assuring him as to the quiet of Nauvoo, and that Smith and his friends were ready to obey the laws. I was told [by Ford or state officials] that the constable with a posse had that evening gone to Nauvoo *with a writ for Smith and others*, and that nothing short of an unconditional surrender to the laws could allay the excitement.

I was then informed by Gov. Ford he was pledged to protect all such persons as might be arrested, and that they should have an impartial examination, and that if the Smiths and the rest against whom *warrants had been issued, would come to Carthage by Monday the 24th inst., (June,)* it would be a compliance on their part, and on Sunday morning the 23d, Gov. Ford pledged his word that if Gen. Smith would come to Carthage, he should by him be protected, with such of his friends as might accompany him, and that I as his counsel should have protection, in defending Smith;

that I returned to Nauvoo [from Carthage, apparently by way of Montrose] on Sunday evening the 23d, and I found Gen. Joseph and Hyrum Smith making preparations to go to Carthage on Monday;

and on Monday morning the 24th, I left the city of Nauvoo in company with the two Smiths, and some fifteen other persons, parties and witnesses, for Carthage. We were met by a company of about 60 men under Capt. Dunn; that at the request of Gen. Joseph Smith, I advanced and communicated with the commander of the company, and was informed he was on his way to Nauvoo, with an order from Gov. Ford for the State Arms [government-issued weapons] at that place, that it was agreed by myself on behalf of Gen. Smith, that the order for the arms should be endorsed by Gen. Smith; and that he should place himself under the protection of Capt. Dunn, to return to Nauvoo and see the Governor's order promptly obeyed and return with Capt. Dunn to Carthage; Capt. Dunn pledging his word as a military man, that Smith and his friends should be protected, that the order was endorsed by Gen. Smith, which was communicated by Capt. Dunn, to Gov. Ford,

with a letter from Gen. Smith, informing the Governor that he would accompany Capt. Dunn to Carthage.

I left the company and proceeded to Carthage; that about 12 o'clock at night [midnight] of [Monday] the 24th, Captain Dunn returned with the State Arms from Nauvoo; accompanied by Joseph and Hyrum, and some 13 others, who were charged with a riot in destroying the printing press of the Nauvoo Expositor.²⁰

A second account by Woods, given in 1882, thirty-eight years later, may have conflated a detail or two but gives more information about what happened on Sunday and Monday, June 23–24. In particular, Woods adds that he went to the camp of Joseph and Hyrum outside of Montrose, Iowa, and what transpired there:

In June, 1844, while I was standing at the wharf at Burlington, a note was handed to me from Joe Smith requesting me to come to Nauvoo.²¹

I jumped aboard and went down. Joe and his brother Hyrum were concealed in a pawpaw thicket across the river in Lee County [Iowa]. I was piloted over [from Nauvoo to Montrose] in a boat by three men. When we reached the other side we found a couple of horses saddled and bridled all ready to go. We mounted and rode down the river for about three miles and then turned up a ravine, which we traversed for about three-quarters of a mile through a thicket and came to the camp of Joe and Hyrum Smith.

There were *about twenty other men with them*. We held a consultation and concluded that Smith should return to Nauvoo, and that I should go [back] to Governor Ford, of Illinois [carrying a letter Joseph had just signed at 2:00 p.m.], and obtain a [written?] pledge from him that the Smiths should have a fair and impartial trial and that they should be protected from all bodily harm. . . . I advised him to return to Nauvoo, as already stated, and disband his legion, and I went to Carthage [that afternoon], where I met the Governor and obtained from him the pledge of safety before referred to.

I returned with it [the pledge] to where I had left Smith [at the Mansion House on Saturday night] and we started on the following morning [Monday] for Carthage.

About nine miles out we met Captain Denin (or Dunn) with a company of cavalry and an order from Governor Ford for the surrender

20. James W. Woods, "At the Request of the Friends of Joseph and Hyrum Smith," *Times and Seasons* 5 (July 1, 1844): 563–64; paragraphing, parentheticals, and italics added.

21. It is more likely that Woods returned from Carthage directly to Nauvoo, not going by way of Burlington. Perhaps he is remembering here a request he received on Friday, June 21, to go that evening from Burlington to Nauvoo.

of the state arms [government-issued weapons] which the legion had drawn under the state laws.

Then I thought it unsafe for Smith to go on. I also thought it would be unsafe for the Captain and his men to go to Nauvoo without the Smiths and the other leaders with him, as there were about twenty thousand Mormons at Nauvoo.

Under these conditions it was agreed that Smith *should go back to Nauvoo* and assist in gathering the government arms that were to be given up or back to the State. On this being done, I was to report the fact to Governor Ford, and then the Smiths and the other prisoners were to surrender themselves under the pledge of safety and protection.²²

Obviously, Woods felt the urgency of the occasion. It is unclear why his July 1, 1844, account right after the martyrdom did not include any comment about his having gone to the hidden camp three miles downstream from Montrose, Iowa.²³

Importantly, Woods's 1844 account reports that the governor's posse arrived in Nauvoo on Saturday night with a writ demanding the appearance of Smith and others in Carthage. In Carthage, Ford informed Woods that warrants had been issued, requiring his clients to come "to Carthage by Monday the 24th."²⁴

Thus, a few hours before Joseph and Hyrum crossed the Mississippi early Sunday morning, they knew that they had been summoned to appear in Carthage on Monday. But they were not under arrest; they could still come and go as they pleased. Presumably, the writ had precisely demanded that the accuseds surrender themselves on Monday "on the mound"²⁵ at 10 A.M." in order to be in Carthage "at 12 noon," for the case of *State of Illinois v. Joseph Smith Jr.* These details were included by Joseph in his letter to Johnstone on Sunday, June 23.

22. Edward H. Stiles, *Recollections and Sketches of Notable Lawyers and Public Men of Early Iowa: Belonging to the First and Second Generations, with Anecdotes and Incidents Illustrative of the Times* (Des Moines, Iowa: Homestead Publishing, 1916), 268–69; paraphrasing, parentheticals, and italics added.

23. Perhaps on July 1, he was focused only on giving the requested statement about what happened under Woods's observation in Carthage; perhaps it was not his prerogative to talk at that time about the secret meeting near Montrose.

24. Woods, "At the Request of Friends."

25. Johnstone's recollection identifies the mound as a place about six miles east of Nauvoo. "The Prophet's Last Written Word," newspaper clipping collected in "History of Keokuk," 10 vols., 8:318–19, Caleb Davis Papers, State Historical Society of Iowa library, Iowa City, Iowa.

The Joseph Smith history, written in Joseph's voice, records another idea that was being considered that day—to get horses and head west to the Rocky Mountains:

At sundown [on Saturday], I asked O. P. Rockwell if he would go with me a short journey, and he replied he would. Abraham C. Hodge says that soon after dark Joseph called A. C. Hodge, Jno. L. Butler, A. Cutler, Wm. Marks, and some others into his upper room and said, "brethren, here is a letter from the Governor which I wish to have read". After it was read through Joseph remarked "there is no mercy—no mercy here". Hyrum said "No; just as sure as we fall into their hands we are dead men". Joseph replied "yes; what shall we do brother Hyrum?" He replied, "I don't know".

All at once Joseph's countenance brightened up and he said, "the way is open—it is clear to my mind what to do; all they want is Hyrum and myself—then tell everybody to go about their business, and not to collect in groups but scatter about; there is no doubt they will come here and search for us—let them search; they will not harm you in person or property, & not even a hair of your head. We will cross the river tonight and go away <to the West>."²⁶

He made a move to go out of the house to cross the river; when out of doors he told Butler and Hodge to take the *Maid of Iowa*²⁷ (in charge of Repsher) get it to the Upper [Nauvoo] landing, and put his and Hyrum's families and effects upon her; then to go down the Mississippi, and up the Ohio river to Portsmouth where they should hear from them. He then took Hodge by the hand and said, "now, bror Hodge, let what will come, don't deny the faith, and all will be well".>

I told Stephen Markham that if I and Hyrum were ever taken again, we should be massacred, or I was not a prophet of God; "I want Hyrum to live to avenge my blood, b<ut> he is determined not to leave me." . . .

About 9 P.M, Hyrum came out of the Mansion and gave his hand to Reynolds Cahoon, at the same time saying, "a company of men are seeking to kill my brother Joseph, and the Lord has warned him to flee to the Rocky Mountains to save his life; good bye brother Cahoon, we shall see you again." In a few minutes afterwards, Joseph came from his family; his tears were flowing fast; he held a handkerchief to his face, and followed after brother Hyrum without uttering a word.²⁸

26. It is unclear when this addition was inserted or how far into or beyond Iowa he intended to go at that immediate time.

27. The *Maid of Iowa* was a small steamboat owned by members of the Church.

28. "History, 1838–1856, Volume F-1," 147. The proposal that he planned to go west may have been recorded more prominently than it actually was

Meanwhile, apparently after discussing the governor's letter that had just arrived Saturday evening and while still mulling over what course to take in response to it, Joseph was unexpectedly visited by John C. Calhoun Jr. and Patrick Calhoun, sons of John C. Calhoun, a senator from South Carolina whom Joseph had met in Washington, D.C., in February 1840 and who was now—as was Joseph—a candidate for U.S. president. Joseph was meeting in the Mansion House with Hyrum, Willard Richards, John Taylor, and John M. Bernhisel (a Church member and Joseph's main advisor regarding Washington affairs) at the time when the two Calhouns arrived at the heavily guarded door of the Mansion House. They convinced the main guards (likely Reynolds Cahoon and Alpheus Cutler) that they were not spies of Governor Ford. Joseph received the two young men and gave them “a full description of his difficulties, and also an exposition of his faith, frequently calling himself the Prophet.”²⁹ In turn, the two Calhouns advised Joseph and the Mormons “to lay [their] grievances before the federal government.”³⁰ After this unexpected meeting, Joseph consulted further with Hyrum, Richards, Taylor, and Bernhisel and determined to go to Washington “and lay the matter before Prest. Tyler.”³¹

At that point, at midnight, Joseph wrote a letter to Ford responding to his latest letter. Shortly afterwards, with Hyrum, Richards, and Rockwell, Joseph crossed the Mississippi River from Nauvoo, sometime after midnight and before 2 a.m., Sunday, June 23. They bailed out their leaky boat as they rowed.³²

What was Joseph thinking of doing next? Joseph was apparently seeking spiritual guidance and discussing his options with those he trusted. If he had actually decided to go west or to Washington, he was at that time unprepared for either journey, not having the means nor the time to collect necessary supplies.

considered at the time, since the histories quoted here were written by those who followed Brigham Young to the west; this plan could be seen as a prophecy.

29. John C. Calhoun Jr. to [James Edward Calhoun], July 19, 1844, quoted in full in Brian Q. Cannon, “John C. Calhoun, Jr., Meets the Prophet Joseph Smith Shortly before the Departure for Carthage,” *BYU Studies* 33, no. 4 (1993): 777.

30. “We have been advised by legal and high-minded gentlemen from abroad, <who came on the boat this eve> to lay our grievances before the federal government.” Smith to Ford, June 22, 1844.

31. “History, 1838–1856, Volume F-1,” 147.

32. “History, 1838–1856, Volume F-1,” 147. The boat was owned by Aaron Johnson. See Alan P. Johnson, *Aaron Johnson: Faithful Steward* (Salt Lake City: Publishers Press, 1991), 64.

Joseph knew that staying in Montrose or crossing farther west into Iowa would not improve his chances for avoiding attack. Iowa was not entirely a safe haven for him. Joseph undoubtedly knew of the June 18 public meeting that had been held in Keokuk, Iowa, just ten miles downriver from Montrose and Nauvoo, banning Joseph from entering Keokuk and offering to assist groups that were preparing to rise up against him.³³ In fact, it is very likely that Joseph and others in his large gathering were spotted or heard about that day by people in Montrose, especially by anti-Mormons such as the Kilbournes,³⁴ who lived there. If so, the news would have traveled quickly from Iowa to Thomas Sharp in Warsaw and to his close friends in Keokuk, who would have passed the word to mobilize forces to plan a way to capture or deal with Joseph.

Anyone in Joseph's situation would need a little time and distance in which to process these stark developments. Having doubts about the viability of going east to Washington or west to the Rockies, Joseph likely felt that his most pressing need was to seek additional, outside legal counsel in deciding what to do next and to organize his legal team to represent himself and the others who were facing the charges listed in the governor's letter.

What happened that Sunday morning remains somewhat vague. A cryptic, truncated entry in Willard Richards's journal for June 23, 1844, published in the *Joseph Smith Papers*, states: "23 Sunday—2. A.M.—arrivd on the bank—abo[u]t day-break—walked up to B [blank] about sun rise wrot[e]— [blank] & sent express ab[o]ut noon Dr Bernshiel [Bernhisel] came. &—cahoon and explid govern[or's] Letter."³⁵ According to these notations, Joseph and his small group left Nauvoo about 2 a.m. at the latest.³⁶ They arrived on the bank on the Iowa side of the Mississippi River perhaps an hour later.

33. "The Preparation," *Warsaw Signal*, June 19, 1844: "We have assurances that our neighbors in Missouri and Iowa will aid us. . . . From Keokuk and the river towns we learn that all are arming." The events of June 18 and 19, namely, the meetings of civilian coalitions and the mobilization of armed men in Lee County and the Keokuk area, have yet to be dealt with in a thorough review.

34. For information about the Kilbournes as anti-Mormon agitators, see Warren A. Jennings, ed., "Two Iowa Postmasters View Nauvoo: Anti-Mormon Letters to the Governor of Missouri," *BYU Studies* 11, no. 3 (1971): 275–92.

35. Andrew H. Hedges, Alex D. Smith, and Brent M. Rogers, eds., *Journals, Volume 3: May 1843–June 1844*, Joseph Smith Papers (Salt Lake City: Church Historian's Press, 2015), 305.

36. The Council of Fifty Minutes says they left "about 1 o'clock in the night." Grow and others, *Council of Fifty, Minutes*, 197.

Evidently they walked to John Killian's house about daybreak. June 23 being one of the longest days of the year, daylight or sunrise was about 4:30 in the morning. Killian was not home, so the group went to William Jordan's house.³⁷ A. W. Harlan, in another 1880s newspaper clipping in the unpublished scrapbook "History of Keokuk," reports that Joseph and his companions stayed at the home of William Jordan all that day.³⁸ Harlan's story adds that William Jordan was a "true friend" of Joseph and that his "cabin stood rather over the top of the hill, south of Montrose." Harlan says that Jordan "managed [Joseph's] correspondence" while Joseph was concealed at, or near, his cabin.³⁹ Thus Jordan may have been the one to arrange for the delivery of the letter to Johnstone that morning.

Next, according to Willard Richards—and this also would have been right around sunrise—Joseph dictated and Willard wrote something that was delivered "express." It is thought that this letter was "probably the 23 June letter Joseph Smith wrote to Emma Smith in which he told her of several people who had money of his and gave her permission to sell 'the Quincy Property' and other property to support herself, their children, and his mother,"⁴⁰ and it may well have been, but the words "about sunrise wrot[e]" could include the writing of other letters as well.

At that time, Joseph still had several options on his mind. In his letter to Emma, he told her that "if possible," he was thinking about going to Washington. He expressed concern about the safety of his family. And,

37. "History, 1838–1856, Volume F-1," 147.

38. A. W. Harlan, "Recollection," February 17, 1888, newspaper clipping in "History of Keokuk," 8:323; see also "History, 1838–1856, Volume F-1," 147; and Hedges, Smith, and Rogers, *Journals*, Volume 3, 305 n. 2.

39. Harlan's 1888 "Recollection" overstates the length of time Joseph spent there as "two days and two nights," but Joseph spent no nights at Jordan's. "Recollection," in "History of Keokuk," 8:323; see also John Henry Evans, *Joseph Smith: An American Prophet* (New York: MacMillan, 1933), chap. 44, "In the Home of One William Jordan."

40. Hedges, Smith, and Rogers, *Journals*, Volume 3, 305 n. 3. The letter is online: Joseph Smith to Emma Smith, June 23, 1844, MS 155, box 2, folder 8, images 71, 72, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE429909; and published in Dean C. Jessee, *Personal Writings of Joseph Smith* (Salt Lake City: Deseret Book, 2002), 616. It would be understandable for Joseph to have wanted to let Emma know that he had managed not to sink in his leaky rowboat while crossing the swollen Mississippi River in the dark. His written authority gave Emma legal power to enter into land sales in his name.

at that time, Joseph sent Rockwell “back to Nauvoo with instructions to return the next night with Horses for Joseph and Hyrum, pass them over the river in the night secretly, and to be ready to start for the Great Basin in the Rocky Mountains.”⁴¹ Rockwell likely delivered the letter promptly to Emma.

Meantime, back in Nauvoo, Alpheus Cutler and Henry Sherwood met with “the Officer in command” of the governor’s posse, who promised that Joseph and Hyrum would be protected in safety if they would come to Carthage. They took this pledge of safety to Emma, who asked them to persuade Joseph to return and tell him that unless he returned, “Nauvoo would be burnt up and the people massacred.” Sometime that morning, Emma received Joseph’s letter and in response asked others to reply to Joseph that he should return to Nauvoo. Accordingly, about 11 a.m. on Sunday, “Emma sent over Lorenzo D. Wasson and Hiram Kimball” to persuade Joseph and Hyrum to give themselves up. Meanwhile, Nauvoo resident Lyman O. Littlefield said to Reynolds Cahoon, “Something must be done—we must get those men back or we shall all be destroyed.”⁴² Cahoon took these messages along with a letter from Emma across the river, rowing across the current with Rockwell.

About 12 noon on Sunday, W. W. Phelps went to the Iowa side of the river and told Joseph that Emma refused to leave Nauvoo as he had asked but that Hyrum’s wife would. At this time Joseph and Hyrum had gathered some “flour and other provisions,”⁴³ perhaps evidence that they were still thinking about going farther away to the west. The three men coming from meeting with Emma (Reynolds Cahoon, Lorenzo D. Wasson, and Hiram Kimball) also crossed the river and arrived at Joseph’s camp about noon. They accused Joseph of being a coward. These accusations certainly had an effect on Joseph and Hyrum.

Soon these deliberations were joined by other men, including James Woods, who reported that about twenty men were there.⁴⁴ The history summarizes these intense discussions, which would have commenced about 1:00 p.m. Sunday:

Reynolds Cahoon informed Joseph what the troops intended to do, and urged upon him to give himself up, inasmuch as the Governor had pledged his faith and the faith of the State to protect him while he

41. “History, 1838–1856, Volume F-1,” 147.

42. “History, 1838–1856, Volume F-1,” 148.

43. “History, 1838–1856, Volume F-1,” 148.

44. Stiles, *Recollections and Sketches*, 268–69.

underwent a legal and fair trial. R. Cahoon, L. D. Wasson, and Hiram Kimball accused Joseph of cowardice for wishing to leave the people, adding that their property would be destroyed and they left without house or home; like the fable when the wolves came, the shepherd ran from the flock, and left the sheep to be devoured. To which Joseph replied, “if my life is of no value to my friends it is of none to myself.”

Joseph said to Rockwell “what shall I do?” Porter replied, “you are the oldest and ought to know best; and as you make your bed I will lay with you”. Joseph then turned to Hyrum who was talking with Cahoon, and said, “brother Hyrum, you are the oldest, what shall we do?” Hyrum said, “let us go back and give ourselves up, and see the thing out.” After studying a few moments Joseph said, “if you go back I shall go with you, but we shall be butchered”. Hyrum said, “no, no; let us go back, and put our trust in God, and we shall not be harmed; the Lord is in it; if we live or have to die we will be reconciled to our fate”. (Rockwell.)

After a short pause Joseph told Cahoon to request Captain Daniel C. Davis to have his boat ready by half past five o'clock, to cross them over the river. (Cahoon.)⁴⁵

John Bernhisel also had arrived about noon at William Jordan's cabin. During these Sunday midday conversations with Bernhisel, Joseph may have discussed and weighed further the idea of going to Washington, as he had mentioned in his letter to Emma. The purpose of this trip would have been to seek federal intervention against the course of action that Governor Ford was taking. Joseph was aware of the risks of his being away from Nauvoo for long, and one disadvantage of going to Washington or westward was that the people of Nauvoo might be assailed if he were gone. It well may have been the accusations of cowardice that weighed heaviest in Joseph's mind. Although to some it could well appear that he was fleeing and abandoning his people, Joseph was processing rapidly changing situations in trying to ascertain what was best in light of the conflicting needs of all parties involved.

At 2:00 p.m. on Sunday, while still on the Iowa side, Joseph appears to have made a final decision: he wrote another letter to Governor Ford, stating that, while he had thought the governor's previous letter was “rather severe,” he had received “an explanation from the captain of your possie which softened the subject matter of your communication, and gives us greater assurance of protection.” This letter continued:

45. “History, 1838–1856, Volume F-1,” 148. The names in parentheses apparently indicate the source of the information.

The only objection I ever had or ever made to trial by my country at any time was what I have made in my last letter—on account of assassins, and the reason I have to fear deathly consequences from their hands. But from the explanation, I now offer to come to you at Carthage on the morrow, as early as shall be convenient for your possie to escort us in to Head Quarters We will meet your possie, if this letter is satisfactory, (if not, inform me) at or near the mound at or about *two o'clock* tomorrow [Monday] afternoon. . . . We shall expect to take our witnesses with us and not have to wait a subpoena . . . , so as not to detain the proceedings, although we may want time for *counsel*.⁴⁶

No doubt Joseph proposed meeting at 2 p.m., instead of the earlier requirement of 12 noon, in order to give them a few hours to get there on Monday. From Woods's report, the governor apparently acquiesced to this proposed change in the gathering time, which would give them time to confer with other lawyers who were just coming on board.

Back in Nauvoo, Vilate Kimball was writing to her husband, Heber, who was on a preaching and electioneering mission in the eastern states. Vilate's letter, begun on June 9 and finished on Monday, June 24, 1844, confirms the fears in Nauvoo caused by the threats of the mob and the anxiety of the Saints because Joseph had inexplicably abandoned them. She reports that hundreds of people had left Nauvoo. She also relates her understanding that Joseph had crossed the river to compose his mind and learn the will of the Lord and that the will of the Lord was that Joseph should return and answer the legal charges in court in Carthage. She saw that this act of self-sacrifice would preserve the people of Nauvoo from destruction:

June 11th . . . Nauvoo was a scene of confusion last night, some hundred of the Brethren turned out and burned the printing press [the *Nauvoo Expositor*], and all the apparatus pertaining to the office of the opposite party. This was done by order of the City Council. They had only published one Paper, which is considered a public nuisance. But I do not know whether it will be considered so in the eyes of the Law or not. They have sworn revenge, and no doubt they will have it.

June 24th My Dear Dear Husband, various have ben the scenes in Nauvoo since I commenced this letter, I should have sent it before now, but I have ben thrown into such confusion I knew not what to write. This is not all. The mails have not come regular, eather on account of bad roads and high water or less they are stoped by mobs. I have not

46. Smith to Ford, June 23, 1844; *History of the Church*, 6:550; Jessee, *Personal Writings*, 618, emphasis added.

had a letter from you since the one you wrote back by the Ospry. I know your anxiety to hear from us must be very great, as you will no doubt hear of our trouble by report. Nothing is to be heard of but mobs collecting on every side. The Laws and Fosters, and most of the decenting [dissenting] party with their Families left here a day or two after their press was destroyed. They are sworn to have Joseph and the city council, or exterminate us all. Between three and four thousand brethren have ben under arms here the past week. Expecting every day they would come, the brethren were calld in from all the branches round to help defend the city. Joseph sent word to the Governor if he and his staff would come here, he would abide their desision. But insted of his coming here, he went to carthage, and there walked arm and arm with Law and Foster, untill we have reason to feer he has cought their spirit. He sent thirty men in here dabefore yesterday to take Joseph and sent him a saucy letter, saying if these could not take him thousands could. He ordered the troops here to deliver up their arms, and dispers.

Yesterday morning (although it was sunday) was a scene of confusion. Joseph had fled and left word for the brethren to hang on to their arms and take care of themselves the best way they could. Some were tryed almost to death to think Joseph should leve them in the hour of danger. Hundreds have left the city since the fuss commenced. Most of the merchants on the hill have left. I have not felt frightened amid [it all] neither has my heart sunk within me, untill yesterday, when I heard Joseph [wrote] and sent word back for his family to follow him, and Br Whitneys family were packing up, not knowing but they would have to go, as he is one of the city council. For a little while I felt bad enough, but did not let any body know it, neither did I shed any tears. I felt a confidence in the Lord, that he would presurve us from the ravages of our enemies. We expected them here to day by thousands but before night yesterday things put on a different aspect.

Joseph went over the river out of the United States, and there stoped and composed his mind, and got the will of the Lord concerning him, and that was, that he should return and give himself up for trial. He sent a messenger imediately to Carthage to tell the Governor he would meet his staff at the big mound at eight oclock this morning in company with all that the ritt demanded. They have just passed by here, on their way thare. My heart said Lord bless those Dear men, and presurve them from those that thirst for their blood. Their giving themselves up, is all that will save our city from destruction. The Governor wrote if they did not do so, our city was suspended upon so many caggs of powder, and it needed only one spark to tulch them off, so you can see how he feels. What will be the fate of our dear Brethren the Lord only knows but I trust he will presurve them. If you were here,

you would be sure to be in their midst. This would increase my anxiety of cors.⁴⁷

On June 29, another record was made by David Kilbourne, a prominent anti-Mormon Iowa settler. Writing to an Episcopal minister in England, Kilbourne gladly reported that militia and mobs of people had been determined to wreak vengeance on the Saints, that in order to save their city the Saints did not allow Joseph and others to leave, and that Joseph and Hyrum were now dead:

The work of death has commenced. The Mormon Prophet Joe Smith & his brother Hyrum are no more. . . .

As soon as the Gov. arrived at C[arthage] he found that the people [there] were determined to march to Nauvoo for the purpose of arresting Joe & all the members of the City Council for destroying the press & for other crimes—The Gov on the 21st sent messengers to Joe ordering him & the council to appear at C[arthage] & answer to the numerous charges which had been preferred vs him.

This created excitement at Nauvoo—Joe called a meeting of the Council—He & some of the Council would at this crisis have fled from the town & made their escape from justice; but most of the leaders & his people in general would not suffer him to do so. They knew by this time that if he did not go to Carthage—that the military forces & the people would march to the City—and if Joe could not be found that under the excitement vengeance would fall upon the heads of the innocent as well as the guilty—in the destruction of their City. . . .

The troops are [now] rallying at Carthage & the people at Warsaw, Quincy & other towns—that there are 12 men yet in Nauvoo who must be brought to Justice.⁴⁸

All of these records show the extremely difficult legal position that Joseph, Hyrum, and the members of the Nauvoo City Council were in and why time and space was needed to ponder and seek the Lord's guidance about their available options. Because the meetings and correspondence outside of Montrose were conducted in protective secrecy, people generally were unaware of Joseph's efforts to engage with attorneys to represent him and his brethren in court.

47. Vilate Kimball to Heber C. Kimball, June 9–24, 1844, quoted in full in Ronald K. Esplin, "Life in Nauvoo, June 1844: Vilate Kimball's Martyrdom Letters," *BYU Studies* 19, no. 2 (1979): 234–35; emphasis in original.

48. Warren A. Jennings, "The Lynching of an American Prophet," *BYU Studies* 40, no. 1 (2001): 207–8.

Joseph's Quest in Iowa for Legal Help

In the midst of the flurry of discussions and letter writing on Sunday, June 23, as has now become apparent, Joseph was also occupied much of that day with the need to retain lawyers to accompany him to Carthage. He already had the assistance of James Woods, who had been dispatched to meet with the governor Saturday night and had successfully returned. At some point on Saturday night, seeing the magnitude of this brewing legal storm, Woods may have recommended that Joseph request the services of other Iowa lawyers.

For many reasons, it made sense for Joseph to seek out assistance from Iowa lawyers. Most Illinois lawyers may well have felt some difficulty appearing in opposition to their state governor as well as facing the brewing mobs and standing up against the popular sentiments in Hancock County. Iowa lawyers were legally permitted to practice in Illinois, and since Iowa was a federal territory, such attorneys had qualifications to speak persuasively about federal constitutional law.⁴⁹

Contacting Edward Johnstone. James Woods, as a lawyer from Burlington, Iowa, the next city upstream (about twenty miles) from Fort Madison, knew Edward Johnstone and his partner Hugh T. Reid professionally. Sometime on Sunday morning before midday, Joseph had dispatched a runner carrying his letter (fig. 1 above) to Judge Edward Johnstone urgently requesting his prompt professional legal representation. This letter was carried to Fort Madison by George Washington Joshua Adams.⁵⁰ Joseph Smith sought out Johnstone because he unquestionably had a high public reputation.⁵¹ In order to answer

49. "An Act concerning Attorneys and Counselors at Law," in *The Public and General Statute Laws of the State of Illinois: Containing All the Laws Published in the "Revised Statutes" of 1833*, ed. Jonathan Young Scammon (Chicago: S. F. Gale, 1839), 83, sections 8 and 11.

50. See "Adams, George Washington Joshua," Joseph Smith Papers, <http://www.josephsmithpapers.org/person/george-washington-joshua-adams>. Nothing more is known about Adams's dispatch and return.

51. Edward Johnstone (b. 1815 in Pennsylvania, d. 1891 at Keokuk, Iowa) was a law clerk, lawyer, judge, legislator, and businessman. He studied law in Pennsylvania and moved to Burlington, Wisconsin Territory, in 1837. He was elected as a transcribing clerk of the Wisconsin Territory, recording land claims, and he moved to Montrose in connection with that duty. In 1839, he formed a law partnership with Hugh T. Reid and served as Lee County's representative to the Territory of Iowa legislature. President James K. Polk appointed Johnstone

Ford's legal summons with any degree of confidence, Joseph absolutely needed lawyers to go with him. Although the timing of the writing and delivery of the Johnstone letter is debatable, I favor the idea that the Johnstone letter was written fairly early Sunday morning.⁵² At that time, Joseph would still have been weighing all of his options and considering what his next steps might or should be. Until Joseph wrote his 2:00 p.m. letter to Ford agreeing to surrender, submitting to Ford's arrest was only one of his options. It makes the most sense that Joseph wrote his letter to Johnstone before Joseph wrote his letter to Governor Ford at 2:00 p.m. that Sunday afternoon. This is because Joseph's letter to Johnstone stated Joseph's intention to "meet the governor's posse on the mound at 10 a.m.," which was the original Monday time demanded in Ford's Saturday night summons. That meeting time was pushed back by Joseph's 2:00 p.m. Sunday letter to Ford, offering instead to meet Ford's posse, not at 10 a.m. but at 2:00 p.m. Monday.⁵³ So it appears that the Johnstone letter must have already gone out before the 2:00 p.m. letter to Ford was discussed and written. Moreover, in writing to Johnstone, Joseph would have wanted to give Johnstone enough time to travel and meet him in Illinois the next morning at the mound east of Nauvoo. It would take several hours of daylight time for Johnstone to travel from Fort Madison to the proposed meeting place on Monday morning, and so Joseph would have wanted to reach Johnstone as early on Sunday as possible. Furthermore, the Johnstone letter also included the time of the commencement of the court proceeding in Carthage, slated for

in 1845 a U.S. attorney for Iowa Territory. He was mayor of Fort Madison in 1849. He was a Democrat who was close with prominent men of both parties in Iowa but chose not to pursue high office himself; he was sought out for legislative counsel and served in the Iowa Constitutional Convention of 1857 on seven committees. He was an active participant in the Episcopal Church. He read Latin and French and occasionally enjoyed writing poems and essays on nature. He was remembered as being courteous, well-bred, and noble. His brother William Johnstone served as governor of Pennsylvania (1848–1852). J. M. Shaffer, "Sketch of Judge Edward Johnstone," *Annals of Iowa* 13, no. 8 (1923): 563–69, <http://ir.uiowa.edu/annals-of-iowa/vol13/iss8/2>; "Edward Johnstone's Character and History," *Annals of Iowa* 13, no. 8 (1923): 622–25, <http://dx.doi.org/10.17077/0003-4827.4706>.

52. The earlier the Johnstone letter was written, the more prominent the search for lawyers that day would have been in Joseph's mind.

53. "History, 1838–1856, Volume F-1," 149; *History of the Church*, 6:550; Jesse, *Personal Writings*, 618.

“12 noon” on Monday. That would not have been written after 2:00 p.m. on Sunday, when the meeting time at the mound was pushed back to 2:00 p.m. Monday. In actuality, the case would not come up on the court’s calendar until Tuesday, a normal enough one-day delay under the circumstances. Johnstone replied to Joseph Smith later that Sunday, saying that Joseph’s letter had gotten to him that evening.⁵⁴

In the statement published in the Iowa newspaper, Johnstone recalled that Joseph’s letter had been delivered to him by a “peripatetic p[r]eacher and play actor among the Mormons,” named Adams, whom Johnstone knew and recognized on sight. Adams may have traveled between Montrose and Fort Madison by river (nine miles upriver) or by land (ten to twelve miles). In the message to Johnstone, Joseph had stated his need “to attend a case at Carthage to-morrow, State of Illinois vs. Joseph Smith, &c.” and had requested the judge’s “attendance professionally, without fail.” Johnstone’s newspaper recollection states that this letter was delivered to him while he “was sitting in the door of [his] office, in Fort Madison, anxiously awaiting the arrival of a down river steamer, which came semi-occasionally, and on which [he] intended to embark for a trip to [his] native land—western Pennsylvania—which [he] had not visited for several years” (fig. 2).

Because of this trip, Johnstone declined to go to Carthage himself, “not being fully aware of the emergency of the case,”⁵⁵ and so he handed the letter off to his law partner, Hugh T. Reid, who in fact did attend the hearings in Carthage.⁵⁶ Reid arrived in Carthage on Monday before Joseph and the others arrived. Reid states: “On Monday the 24th inst., at the request of Gen Joseph Smith I left Fort Madison in the Territory of Iowa, and arrived at Carthage where I expected to meet the General, his brother Hyrum and the other persons implicated with them; they arrived at Carthage late at night and next morning [Tuesday] voluntarily surrendered themselves to the constable.”⁵⁷

54. Discussed below. See also “History, 1838–1856, Volume F-1,” 150; *History of the Church*, 6:553.

55. “The Prophet’s Last Written Word.”

56. Hedges, Smith, and Rogers, *Journals*, Volume 3, 307 n. 12, 311–12, 320 nn. 89–90, 438. Reid stayed at Hamilton’s Hotel, as did Joseph’s group on Monday night; see Hedges, Smith, and Rogers, *Journals*, Volume 3, 323.

57. H. T. Reid, “Statement of Facts,” *Times and Seasons* 5 (July 1, 1844): 561–62.

James Woods, the main lawyer who was with Joseph and Hyrum in Carthage, left further information about his legal representation of the brothers. Of their work in Carthage on Monday, Tuesday, and Wednesday, Woods recalls, "We were three days justifying bail. The justice of the peace was really one of the leaders of the mob and he refused to accept bail as long as he could. Colonel Singleton was the attorney for the prosecution. I [had] sent for Edward Johnstone to assist me and he sent his law partner, Hugh T. Reid."⁵⁸

Contacting Henry T. Hugins. In addition, on that Sunday, Joseph wrote to another Iowa attorney, Henry T. Hugins,⁵⁹ also of Burlington, requesting his legal counsel, and to John R. Wakefield, requesting him to be available to testify in court as a witness. Because both of these letters also say that the party would meet at the mound *at 10:00 a.m.* and that the court would convene on Monday *at 12 noon*, Joseph may have written these letters also on Sunday morning (at least before writing to Ford at 2:00 p.m.). An early writing of these letters would have given Hugins and Wakefield more time to travel to the meeting place.

Alternatively, Joseph could have written these two letters closer to 6:00 p.m., after returning from Montrose to Nauvoo, after he had received news (perhaps upon Adams's return) of the expected negative reply from Johnstone. Indeed, Joseph wrote "Nauvoo" at the top of these letters to Hugins and Wakefield. And yet, Joseph may not have been back in Nauvoo when that was written, just intending to return there soon. Nauvoo was his home, and that might be all that was indicated by that notation of a return address. It may be worthy of note that Joseph's letter to Johnstone does not disclose Joseph's location or return address at all, perhaps indicating that the Johnstone letter and the other two letters all took some care not to reveal the undisclosed place of Joseph's camp in Iowa.

58. Stiles, *Recollections and Sketches*, 268–69. Woods's statement at the end of this recollection, to the effect that he sent for Johnstone, might best be understood as a recollection by Woods that he had previously recommended Johnstone, not referring to an unknown request that Woods made from Carthage after he and others ("we") were at work trying to justify bail.

59. Henry Theodosius Hugins (1814–1861) practiced law in Iowa from 1842 to 1846. His legal interactions with Joseph Smith are listed at Joseph Smith Papers, "Hugins, Henry Theodosius," <http://www.josephsmithpapers.org/person/henry-theodosius-hugins>.

In any event, in the letter to Hugins, Joseph stated:

Sunday—
Nauvoo June 23/ 44

H. T. Hugins Esq

Sir I have agreed to meet Gov Ford at Carthage tomorrow to attend an examination before Justice [Thomas] Morrison, and request your attendance, professionally with the best attorney you can bring.

I meet the Gov's Possie on the Mound at 10 A.M.; in Carthage at 12 noon.—Do not fail me and oblige, Yours respectfully,

Joseph Smith
per W. Richards Clerk.
PS Dr J R Wakefield I wish as witness [?]⁶⁰

Likewise, in the letter to Wakefield, Joseph wrote:

Nauvoo,
Sunday, June 23rd, 1844

Dr. J. R. Wakefield

Sir, I would respectfully solicit your attendance at court in Carthage tomorrow at 12 noon as witness in case State of Illinois—on complaint of F. M. Higbee vs Joseph Smith and others. Dear Sir do not fail me and oblige your old friend

Joseph Smith
W. Richards clerk

P.S. Esqu Hugins & Co-partner is expected, we meet the Gov's Possie on the mound at 10 A.M. at Carthage at 12 noon. [Illegible] will give [justices?].⁶¹

60. Joseph Smith to H. T. Hugins, June 23, 1844, MS 155, box 2, folder 8, image 80, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE429909.

61. Joseph Smith to J. R. Wakefield, June 23, 1844, MS 155, box 2, folder 8, image 83, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE429909. John R. Wakefield (c. 1810–after 1869) was a dental surgeon traveling through Nauvoo in June 1844. He testified to witnessing the destruction of the *Nauvoo Expositor* on June 12 and 24, 1844, and wrote a letter to Governor Ford repeating his statement. A letter he wrote to Joseph Smith with no date may have been in reply to Joseph's June 23 request: "Dear Sir, I am truly sorry that I cannot come to give testimony in this case but wife is too sick to leave. She is on a visit to her sister in Mount Pleasant which was the reason your messenger will not meet with me in Burlington. If you need my evidence at court at a future day give me do notice by legal subpoena and I will come without fail." MS 155, box 3, folder 8, image 1, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE10507264.

The postscript at the end of this letter to Wakefield may indicate that Joseph had already heard back from Hugins that he had accepted the request to come, but the wording “Esqu Hugins & Co-partner *is expected*” may simply mean that Joseph had requested them and was hopeful that they would come. In addition, the identity of the “Co-partner” is uncertain but may have been James Woods. Such details remain unknowable.

The Reply from Johnstone. Whatever options Joseph may have been considering on Sunday morning, by Sunday afternoon he was settled enough in his decision and confident in the letters he had sent that he and the other men left Montrose⁶² and returned to Nauvoo about 5 p.m. At some point, Joseph received the written reply from Johnstone saying that he would not be coming to Carthage. Reid carried this letter and delivered it to Joseph apparently when they met at midnight on Monday in Carthage. The letter reads:

Sunday Evening
June 23rd 1844

Gen. Joseph Smith,

Sir: — I have this moment rec [received] your favor of this day per the hands of Mr. Adams. I regret to say in reply that I am now awaiting every moment a boat for St. Louis, whither my business requires me to go, and which of course will deter me from acceding to your request. I have introduced Mr. Adams to a friend, who is entirely competent to do full justice to your cause.

In great haste,
Yours respectfully
Ed. Johnston
Fort Madison, Iowa⁶³

His June 24 affidavit was sworn in Henry County, Iowa Territory: <http://www.josephsmithpapers.org/paper-summary/affidavit-from-john-r-wakefield-24-june-1844/1>.

62. According to one later family record, that day Joseph visited his old friend Joseph Hancock, and they talked about going to the Rockies, and his wife gave Joseph a biscuit to eat. Amy Rawson Hancock Judkins May and Laurine Judkins Meuller, “Hancock and Adams Families,” *Amy Hancock Judkins May [genealogical records]: and Related Families Rawson, Moore, Tyler, Adams* (1997), found at the Family History Library, Salt Lake City, film #2055415, item 4, p. 119.

63. Edward Johnstone to Joseph Smith, MS 155 box 3 folder 8, image 118, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE10507264.

On the reverse side of this page, Johnstone had addressed this letter to “Genl. Joseph Smith, Nauvoo, Ill.” and indicated that it was to be delivered “Per J.[?] Adams.” But those words were crossed out, and above them the name of “H. T. Reid, Eq.” was written as the deliverer. Thus, this letter probably never made it to Nauvoo. It was written by Johnstone in Fort Madison, thinking to send it back with Adams, but instead it was handed to Reid and carried by him to Carthage on Monday.

Aftermath and Conclusion

Whatever the timing of these letters may have been, the quest for needed legal assistance quite certainly played a significant role in Joseph’s intentions as he crossed the river Sunday morning and as he worked his way through his options that June 23, as these documents evince. Woods’s legal counsel to Joseph on Saturday may have started Joseph considering, among his options, the most pressing factor, the demand that he submit to arrest and the need for lawyers in that case. Thus, Joseph may have gone to the Iowa side, in the first instance, in order to have essential time and space to think and to write letters to Emma and to Governor Ford and to secure legal representation.

These letters sent to lawyers and a witness expressed urgency and were sent with haste. Messengers traveled by land or river as fast as possible. Every messenger certainly knew how dire the situation was for Joseph and Hyrum, for the other accused men, and for all the Saints in Illinois at this moment, and they acted decisively and without delay. Forty years later in his newspaper statement (fig. 2), Johnstone still regretted that he had not fully recognized the emergency.

As he made his decision outside of Montrose at 2:00 p.m. on Sunday to go to Carthage the next day—although he still could not have been very optimistic that he would receive a fair trial and be released—Joseph was likely somewhat reassured knowing that he would have James Woods with him there as his lawyer and also that there was a possibility that at least two other lawyers might come. James Woods had told Reid and Joseph that Reid’s presence was necessary,⁶⁴ and soon Hugins was expected to come as well. Having secured legal representation, Joseph

64. Woods said that he sent for Edward Johnstone to assist him “and he sent his law partner, Hugh T. Reid.” Stiles, *Recollections and Sketches*, 269. Perhaps Woods was unaware that Johnstone was planning to go to Pittsburgh, or he thought that Johnstone could still change his mind about taking that trip.

spent that night back in Nauvoo and then left at 6:30 a.m. Monday morning for Carthage to voluntarily submit himself to the summons to appear in state court there.⁶⁵

Riding alongside Woods,⁶⁶ Joseph and Hyrum and their party traveled to Carthage early Monday morning, bypassing the meeting at the mound,⁶⁷ and met the governor's posse halfway between the mound and the city of Carthage. The parties then rode partway to Carthage, only for Joseph to return to Nauvoo to assure the peaceful return of state-owned weapons to government officials. Joseph and Hyrum then remounted and rode their last time to Carthage, arriving there at midnight.⁶⁸

Greeting this party in Carthage was Hugh Reid. He had arrived earlier and had written a letter to Joseph, which stated:

In accordance with previous arrangement with Elder Adams I am here at your service; and it will be necessary for us to have on the examination here before the justice a certified copy of the City Ordinance for the destruction of the Expositor Press, or a Copy which has been published by authority—We also wish the original order issued by you to the Marshall for the destruction of said press; and such witnesses as may be necessary to show by whom the press was destroyed, and that the act was not done in a Riotous or tumultuous manner.⁶⁹

It appears that Reid's letter was handed to James Woods when Joseph and his party arrived in Carthage, for Woods appended at the bottom

65. Willard Richards, Journal 10, June 24, 1844, MS 1490, Church History Library, cited in Hedges, Smith, and Rogers, *Journals, Volume 3*, 305–6.

66. James Woods later wrote about his anxiety in accompanying Joseph and Hyrum: "There were about fifteen hundred men there. . . . There were at least a hundred men loaded to shoot Joe Smith, but I was on his right . . . between Smith and the militia. I knew almost every man in the crowd. . . . They told me afterwards that but for me Joe would have never passed through the lines alive; they did not want to hurt me." Stiles, *Recollections and Sketches*, 269.

67. Jediaiah M. Grant and Theodore Turley returned to Nauvoo from Carthage Sunday night or very early Monday morning "bringing a message, from the Governor demanding the Generals Smith to be in Carthage by 10 next morning," presumably also bringing the news that there would be no escort and no meeting at the mound. "History, 1838–1856, Volume F-1," 150.

68. Hedges, Smith, and Rogers, *Journals, Volume 3*, 305–6 nn. 6–9.

69. H. T. Reid and James Woods to Joseph Smith, June 24, 1844, MS 155, box 3, folder 8, image 120, Church History Library, https://dcms.lds.org/delivery/DeliveryManagerServlet?dps_pid=IE10507264; copy of letter in "History, 1838–1856, Volume F-1," 153; underlining in original.

and back of Reid's letter his legal concurrence of Reid's request and proposed strategy:

I concur fully as to the above and will add, from an interview with Governor Ford, you can with the utmost safety rely on his protection and that you will have as impartial an investigation as could be expected from those opposed to you. The excitement is much allayed and your opponents <those who wish to make capital out of you> do not want you to come to Carthage. Mr. Johnson [Edward Johnstone] had gone [sic] East and that will account for Mr. Read [sic] being here. Respectfully, your obt svt [obedient servant], James M. Woods ["Carthage 24th June 1844," added in different ink]⁷⁰

In the end, Joseph was represented in Carthage by Woods, Reid, and Hugins.⁷¹

Thus Joseph's trip across the river had allowed him time to weigh options and come to a decision. While this article has detailed only the events up to the end of Monday, June 24, the continuing story of the legal events that ensued in Carthage is told by Joseph A. Bentley's "Road to Martyrdom,"⁷² which provides a careful analysis of the specious postponement at 4:00 p.m. on Tuesday, June 25, of the misdemeanor and damage charges that were raised against Joseph and the Nauvoo City Council, for which a jury eventually awarded a judgment of \$600 in damages.⁷³ Bentley also provides a thorough discussion of the bogus charge of treason that was oddly issued against Joseph and Hyrum alone by a single judge on June 25.⁷⁴ Bentley analyzes the legal issues in each of these court actions, concluding that these legal maneuvers and other efforts were ill founded and intentionally designed by the organizers of the *Nauvoo Expositor* mainly to place Joseph and Hyrum Smith's lives in mortal danger in Carthage.

As a last-ditch effort, Joseph made two final efforts to add to his legal team after his Iowa lawyers had gone home and the new matter of treason had been concocted. Almon W. Babbitt was asked, but he had been

70. Reid and Woods to Smith, June 24, 1844, images 120–21. The back of the folded letter (image 123) had been addressed to "Gen'l Joseph Smith, Nauvoo, Ill., per Elder Cahoon," but was apparently delivered to Joseph after he arrived in Carthage.

71. Hugins probably traveled from Burlington down the river ten or fifteen miles and then overland to Carthage, a total of about thirty-two miles.

72. See note 3 herein.

73. Bentley, "Road to Martyrdom," 51–52, 59.

74. Bentley, "Road to Martyrdom," 62.

hired already by the state of Illinois. The last letter of Joseph's life was an attempt to reach O. H. Browning, another Illinois lawyer.⁷⁵

In light of this analysis of newfound legal documents, one can see all the more clearly that one of Joseph's purposes for going across the river early Sunday morning, June 23, was to have time and proximity to contact Iowa lawyers who could go with him the next day to oppose the state of Illinois. All of this shows how the events surrounding the murder of Joseph and Hyrum in Carthage were thoroughly entangled with the law. While many have understandably wondered and speculated about Joseph's motives in crossing the Mississippi early Sunday morning, June 23, the fuller picture shows that Joseph's quest for legal representation was a larger factor among Joseph's legitimate intentions on that pivotal day than has been previously realized.

Newspaper Article Containing the Interview with Johnstone and the Text of Joseph Smith's June 23 Letter

The newspaper version of the Prophet's letter differs from the original document⁷⁶ in a few respects. The newspaper version spells out "Colonel," changes the spelling of "Johnson" to "Johnston," deletes the "Esq" after "Johnson," and deletes "at 12 noon" as the time of the hearing. These textual variations indicate that the reporter either took down transcription while the letter was being read out loud by Johnstone or was not careful in looking at the original.

THE PROPHET'S LAST WRITTEN WORD

Judge Edward Johnstone, of this city, showed us the other day a timeworn half sheet of foolscap paper, sealed with a red wafer in the old way without an envelop and upon which was written a brief letter. Judge Johnstone said:

I believe this is the last letter written, or rather dictated, by the Mormon prophet, Joseph Smith. In looking over some old papers, a few days ago, I found it. The following is an exact copy:

"SUNDAY, June 23rd, 1844.—Colonel Johnston—Sir: I have to attend a case at Carthage to-morrow, State of Illinois vs. Joseph Smith, &c., and especially request your attendance professionally, without fail. Yours, respectfully,

JOSEPH SMITH.
Per W. RICHARDS, Clerk.

75. Bentley, "Road to Martyrdom," 65–66.

76. See figure 1.

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Per W. RICHARDS, Clerk.

P. S. Will meet the governor's posse (sic) on the mound at 10 a. m."

Dr. Richards was Smith's private secretary, an Englishman I think, and is still living at Salt Lake. The "mound" referred to was an eminence, well known in those days, about six miles east of Nauvoo.

The military title of "colonel" prefixed to my name was according to the custom of the country in those early times, when the name of nearly every man was so ornamented. It may have arisen from the fact, according to Talryrand's mot, that all who were not civil, were military.

On a day in June, 1844, I was sitting in the door of my office, in Fort Madison, anxiously awaiting the arrival of a down river steamer, which came semi-occasionally, and on which I intended to embark for a trip to my native land—western Pennsylvania—which I had not visited for several years. In those non-railroad times, it required a voyage of nine or ten days from this region to Pittsburg, via the Mississippi and Ohio rivers, a longer time than is now consumed in going to Liverpool.

Whilst thus waiting, I observed a pedestrian hurrying in hot haste up the street, and on his approach, recognized him as one Adams, a peripatetic preacher and play actor among the Mormons. He was the head of a strolling theatrical company who administered to his-

tronic tastes during week days and to the spiritual wants of his hearers on Sundays. He brought with him the above letter from Smith, and urged my compliance with its request. Not being fully aware of the emergency of the case, and being very desirous to take advantage of the 'first boat,' for which I had waited several days, I handed the letter to my partner, General Reid, whom I felt assured could afford more aid and comfort than I could to the defense of the prophet. All who remember his energy and force will well understand this. General Reid attended professionally, for several days, the examination of Smith at Carthage, where there had gathered together a great crowd of excited people. The result is well known. During the trial Smith and his brother were placed for security in the Carthage jail, under the protection of the Carthage Guards. On the 27th of June the door of the jail was broken down by parties then, and now, unknown and Smith and his brother Hiram killed. Hiram was shot in the room, and Smith in the window as he was striving to escape his pursuers. He fell out into the jail yard, dead.

FIGURE 2. "The Prophet's Last Written Word," newspaper clipping collected in "History of Keokuk," 10 vols., 8:318-19, Caleb Davis Papers, State Historical Society of Iowa library, Iowa City, Iowa. Here is published Joseph Smith's letter to Judge Edward Johnstone on Sunday, June 23, 1844, and Johnstone's reminiscence. Courtesy State Historical Society of Iowa library.

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77. A "mot" is a word, comment, opinion, or a witty saying. Charles Maurice de Talleyrand-Périgord was a military advisor to Napoleon. "During Napoleon's reign the military were at their most arrogant, referring contemptuously to civilians as *pequins* (weaklings). Talleyrand asked a certain general for an explanation of the derogatory term. '*Nous appelons pequin tout ce qui n'est pas militaire* [We call weakling anybody who is not military],' he replied. '*Ah, oui,*' said Talleyrand, '*comme nous autres appelons militaires tous ceux qui ne sont pas civiles*' (Ah, yes, we call military all those who are not civil)." *Bartlett's Book of Anecdotes*, ed. Clifton Fadiman and André Bernard (Boston: Little, Brown, 2000), 523.

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