

**JOSEPH SMITH'S
BAINBRIDGE, N.Y., COURT TRIALS
and
FROM OCCULT TO CULT
WITH JOSEPH SMITH, JR.**

By Wesley P. Walters

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JOSEPH SMITH'S BAINBRIDGE, N.Y., COURT TRIALS

W. P. WALTERS

HISTORY is recorded in the strangest places. Who would expect to find colorful fragments of history reflecting the drama and pathos of daily living hidden away in a dusty pile of old county bills! These bills submitted to the County Board of Supervisors to be “audited and allowed” for payment by local school commissioners, road supervisors, surveyors, those in charge of the county poor houses, constables, justices of the peace and the like, each handwritten by the official himself, reflect the life and human heart-throb of the period—“carrying Obediah Newton, his pretended wife and three children to poor house . . . \$10.00”; investigating the claim that a young girl “was with child—\$1.00” and “pursuing the alleged father—\$2.00”; procuring “a small file . . . for taking Irons off of Treadwell—12½” cents and “whiskey” to keep his guards happy.¹ But of special interest to scholars dealing with early Mormon history are some bills from Chenango County, N.Y., submitted by the forgotten officials who played personal roles in the earliest legal difficulties of Joseph Smith, Jr., the founder of Mormonism.

The 1830 Trial

The Mormon Prophet recorded in his history that he was brought to trial in the town of Bainbridge, Chenango County, New York, in 1830 shortly after his organization of the church in April.² Smith at that time was at the home of one of his converts,

¹ The first two items appear on bills from Chenango County, N.Y. for the early eighteen twenties; the Treadwell item is in the County Court House at Montrose, Susquehanna County, Pennsylvania.

² Joseph Smith, Jr., *History of the Church* (ed. B. H. Roberts) i, 88ff. (hereafter referred to as *DHC*, Documentary History of the Church).

Newel Knight, when he was “visited by a constable, and arrested by him on a warrant, on the charge of being a disorderly person.” “On the day following,” Smith continues, “a court was convened for the purpose of investigating those charges,” at which investigation, he adds, there were “many witnesses called up against me.” One of the men employed to defend the young Prophet was John Reid, whose personal reminiscence also appears in a footnote in Joseph’s *History*. Mr. Reid recalls that they “had him arraigned before Joseph Chamberlain,” that “the case came on about 10 o’clock a.m.” and “the trial closed about 12 o’clock at night.”³

There is now contemporary evidence to confirm Smith’s story of this trial in the form of the bills for their services submitted to the county by the constable and the judge at the trial. These bills were in the material Chenango County had in dead storage in the basement of the county jail in Norwich, New York, and were turned up in the summer of 1971 by Mr. Fred Poffarl of Philadelphia and the writer. They were bound together in a bundle with the other 1830 Bainbridge bills submitted to the County Board of Supervisors for approval and payment. They appeared still to have been tied with the same pink cord that was placed around them when the treasurer packaged them up for storage after they had been allowed, marked “passed,” and the total due each claimant carefully entered into the “Supervisor’s Journal” beside his name.

One of the bills was submitted by the constable, Ebenezer Hatch, “Dated at South Bainbridge July 4th, 1830,” and reads:

To Serving warrant on Joseph Smith & keeping him	
twenty four hours	\$2.00
3 meals Victuel & 1 Lodging.....	.50
Suppoenyng 5 witness62½
	\$3.13½
	75
	\$2.37½

It is not evident why the total costs were reduced by seventy-five cents, but the \$2.37½ total, rounded off to \$2.38 stands beside Mr. Hatch’s name in the “Supervisor’s Journal” as paid

3 From his speech of May 17, 1844, in *Times and Seasons* v, 549ff, appearing also as a footnote in *DHC* i, 94ff.

to him by the county in 1830. This bill confirms Smith's story that he was in fact arrested one day, held over night, and tried the next day. It further evidences that at least five witnesses were called by subpoena to take part in the investigation of the charge. The second bill is the one submitted by Justice Joseph Chamberlain for the cases he tried between June 1st and August of 1830. Among those cases is *The People of the State of New York "vs Joseph Smith Jr a Disorderly person July 1st 1830."* This not only confirms the assertion of Joseph Smith's *History* that the trial was held before Justice Chamberlain and that the charge was one of "being a disorderly person," but it supplies the exact date of the trial, July 1st 1830. That the examination in this case was quite lengthy is reflected in the itemized listing of Mr. Chamberlain's costs for this case:

oath on Complaint.....	6[¢]
filing Complaint	3
warrant	19
Examination 1 Day	100
10 Subpoenis	60
Swearing 12 witnesses	72

From this it is clear that there were actually twelve witnesses, five served subpoenas by Constable Hatch and seven others probably served subpoenas by the other constable. It must indeed have appeared to young Smith that "many witnesses" were called up against him. Justice Chamberlain's expenses for all six cases appearing on his bill totaled \$11.74 for the three-month period. This amount was entered on the back of the bill and is also still recorded beside his name in the "Supervisor's Journal" under the Town of Bainbridge for the year 1830.

The possibility that anyone could have slipped in a forged bill is ruled out by this practice of entering the totals in the "Supervisor's Journal" beside each official's name. The "Supervisor's Journal," listing all amounts paid during the year, is housed in a separate building from where the bills were kept, and this handwritten journal shows no evidence of being tampered with.⁴ Furthermore, the interrelatedness of the bills themselves, with items from one trial appearing on several different officials' bills, guarantees the genuineness of any particular bill.

⁴ The "Supervisor's Journal 1824-1836" is in the office of the present County Supervisor in the new County Office Building, Norwich, N.Y.

Bainbridge had four justices of the peace and two constables. Each of the justices handled cases in which one or both of the constables were used to serve the warrants and subpoenas, and often two other justices were called in to form a "Court of Special Sessions" to hear a particular case. Therefore the costs for some of the cases appeared on the bills of four or five different officials. The 1825 cases of Luke Crandall and Lewis Porter, for example, appear on the bill of Constable De Zeng who made the arrest and on the bills of Justices Levi Bigelow, James Humphrey, and Zechariah Tarble who served on the three-man "Court of Special Session" to try the cases. Since all their bills also list expenses for other cases tried about the same time, which cases are also similarly interrelated on their bills, it would be impossible to forge one document without having to overhaul them all. Furthermore, since each of the bills is in the distinctive handwriting of the officials submitting the claim, and matches their handwriting on other bills handed in during other years they were in office, the possibility of forgery in such a complex system is entirely ruled out. Although the bills had lain unattended for a long period of time, and even though no one else was present in the jail basement when Mr. Poffarl and the writer made this unusual discovery, this interrelatedness is a virtual guarantee of the authenticity of these bills and we need not fear that some avid follower of Joseph Smith could have planted this evidence to give support to his story.⁵

⁵ Because these and other bills relating to Joseph Smith's Bainbridge trials were removed by the writer and Mr. Poffarl from the water-soaked box in which they were found, and in the interest of trying to preserve them were taken from the damp basement without permission of either the Sheriff or the County Historian who were both unavailable at the time, it has been suggested in some quarters that this may have ruined their historical authenticity. However, these documents were photographed by the writer, as well as xeroxed, directly after their removal from the jail and the photographs, xerox copies, as well as the independent sworn affidavits of the writer and Mr. Poffarl, are all on file at the library of Westminster Theological Seminary in Philadelphia, Pennsylvania. These can be compared with the same documents subsequently returned to the county and now in the custody of the County Historian, Mrs. Mae L. Smith, and it will readily be seen that neither the discoverers nor anyone else has either doctored, forged, or in any way tampered with these bills.

Joseph Smith's *History* gives a portion of the testimony given by Josiah Stool [Stowell]. This material could be verified as to accuracy if we could locate Justice Chamberlain's Docket Book, but the location of this, if it is still extant, is unknown to members of his family.⁶ However, the earliest printed account of the trial, which appeared in the April 9, 1831, issue of the *Evangelical Magazine and Gospel Advocate*,⁷ does mention that testimony was given by Josiah Stowell, thus giving an added point of corroboration to Smith's story. The writer of that article, dated at South Bainbridge March 1831, signs himself as "A.W.B." From other articles in this periodical, the late Dale Morgan who first uncovered this account identifies the writer as A. W. Benton.⁸ It is most likely that this is the same Benton of whom Joseph Smith records a little later in his history that "a young man named Benton, of the same religious [Presbyterian] faith, swore out the first warrant against me."⁹ The Mormon leader's account also adds that Stowell's two daughters, probably Rhoda and Miriam,¹⁰ were also called, while the *Evangelical Magazine* adds to the list of witnesses the names of Mr. Addison Austin and the two Mormon disciples Joseph Knight and his son Newel. Joseph Smith does not mention the Knights as participating in the South Bainbridge trial, but he does name them as participating in the Colesville trial that immediately followed it. It is quite likely that their testimony was given at both trials as a key part of his defense. Smith mentions that the matter of his money digging was brought up at the Colesville trial and the Benton article records that it also played a part in the Bainbridge trial.

⁶ The writer could trace only three descendants: Mrs. Ina Davey of Takoma Park, Md., Mrs. Ellen Wallace of Oneonta, N.Y., and Mrs. Ralph Chamberlin of Fair Lawn, N.J., none of whom knew of any extant docket book of their great grandfather.

⁷ "Mormonites," *Evangelical Magazine and Gospel Advocate*, New Series ii, April 9, 1831, p. 120 (original periodical in Meadville Theological Seminary, Chicago). Photomechanically reproduced in Jerald & Sandra Tanner, *Joseph Smith and Money Digging*, 1970, p. 33. Reprinted in Francis Kirkham, *A New Witness for Christ in America*, 1959, ii, 466-470.

⁸ Fawn Brodie, *No Man Knows My History*, 1971, p. 441.

⁹ *DHC* i, 97.

¹⁰ On Josiah Stowell's family see, William H. H. Stowell, *Stowell Genealogy*, 1922, p. 230.

In regard to this money digging, Benton informs us that an attempt was made to have Josiah Stowell admit that Smith had lied to him about his ability to locate buried treasures. Mr. Benton recalls the questioning of Stowell to have been as follows

Did Smith ever tell you there was money hid in a certain place which he mentioned? Yes. Did he tell you, you could find it by digging? Yes. Did you dig? Yes. Did you find any money? No. Did he not lie to you then and deceive you? No! The money was there, but we did not get quite to it! How do you know it was there? Smith said it was!

Benton also reports that Addison Austin testified that he had asked Smith at the time Stowell was doing his money digging “to tell him honestly whether he could see this money or not. Smith hesitated some time, but finally replied, ‘to be candid, between you and me, I cannot, any more than you or any body else; but any way to get a living.’” We have no way of checking Mr. Austin’s testimony as to Joseph Smith’s admitted inability to see buried treasure, but there can no longer be any doubt that prior to his printing and sale of the Book of Mormon he had gained part of his livelihood by “glass-looking” for hidden treasures. Joseph himself provides us with very little information on this period of his life, but more light on his glass-looking occupation in his pre-Mormon days is provided by a still earlier court trial at South Bainbridge for which striking corroboration in the form of the officials’ bills has also been discovered.

The 1826 Trial

The Benton article of 1831 mentions that for several years preceding the appearance of Joseph Smith’s Book of Mormon “he was about the country in the character of a glass-looker; pretending, by means of a certain stone, or glass, which he put in a hat, to be able to discover lost goods, hidden treasures, mines of gold and silver, etc.” “In this town,” Mr. Benton continues, “a wealthy farmer, named Josiah Stowell, together with others, spent large sums of money in digging for hidden money, which this Smith pretended he could see, and told them where to dig; but they never found their treasure.” Benton adds that the people

tiring of this imposition “had him arrested as a disorderly person, tried and condemned before a court of Justice. But, considering his youth, (he then being a minor,) and thinking he might reform his conduct, he was designedly allowed to escape. This was four or five years ago.” From this account, this earliest trial of Smith should have occurred about 1826.

The discovery among the 1826 Chenango County bills of two bills from the officials who participated in the arrest and trial of Joseph Smith at South Bainbridge in 1826 now confirms this story beyond question. The bill of Justice Albert Neely carries this entry:¹¹

same [i.e. The People]

vs

Joseph Smith

The Glass looker

March 20, 1826

Misdemeanor

To my fees in examination

of the above cause 2.68

The phrase “Glass looker” appearing on Mr. Neely’s bill is the precise terminology preferred by Joseph Smith himself to describe his crystal gazing occupation¹² and is the same that Mr.

¹¹ Justice Neely’s bill was first published by Jerald Tanner from a Xerox copy mailed to him July 29, 1971, the day after the discovery, and it appeared in the Tanners’ *The Salt Lake City Messenger* (August 1971) Issue 32, p. 2. It, along with the Constable’s bill, appeared shortly thereafter in the Tanners’ *Joseph Smith’s 1826 Trial*, 1971, pp. 6, 12f. Both bills were also reproduced from photostats supplied by the writer in Prof. Marvin S. Hill’s “Joseph Smith and the 1826 Trial: New Evidence and New Difficulties,” *BYU Studies* (Winter 1972) xii, 227, 233.

¹² Joseph’s father-in-law, Isaac Hale, in a sworn affidavit published in their county newspaper in 1834 mentions in passing that “Smith stated to me, that he had given up what he called ‘glass-looking,’ and that he expected to work hard for a living, and was willing to do so.” (*The Susquehanna Register*, May 1, 1834, ix, 1, original newspaper in the Susquehanna County Historical Society, Montrose, Pennsylvania. Cf. reprint in E. Howe, *Mormonism Unveiled*, 1834, p. 264). Dr. Richard Anderson of Brigham Young University in a specious argument tries to dissipate the force of Hale’s statements by reasoning that “Since Isaac Hale told Joseph that he ‘followed a business that I could not approve,’ one must assume that Hale never participated in the digging operations at the ‘Spanish Mine’ and therefore relied on hearsay for Joseph Smith’s supposed ‘peeking’ activities in locating treasure.” (“The Reliability of the Early History of Lucy and Joseph Smith,” *Dialogue: A Journal of Mormon Thought*, Summer 1969, iv, 25 fn.) One need not, however, be a

Benton adopted five years later to speak of Smith's use of a peep-stone or glass placed in a hat, which he employed when hired to hunt for hidden treasures. The bill of Constable Philip De Zeng gives further historical evidence and details concerning this trial, by listing:¹³

Serving Warrant on Joseph Smith & travel	1.25
Subpoening 12 Witnesses & travel.....	2.50 (3.50?)
Attendance with Prisoner two days & 1 night.....	1.75
Notifying two Justices	1.—
10 miles travel with Mittimus to take him	1.—

This new evidence corroborates and throws fresh light on two accounts of this 1826 trial published almost a hundred years ago but vigorously disputed by the Mormons since they first came into prominence. The first is an account of the trial by Dr. William D. Purple, an eye-witness to the proceedings and a personal friend of Justice Neely. The second is the official trial record itself, torn from the Docket Book of Justice Neely and published in three independent printings. Not only do the newly-discovered bills substantiate these two accounts as authentic, they now make it impossible for Mormon scholars to dismiss the numerous affidavits testifying that young Smith prior to founding the Mormon faith had earned part of his livelihood using a peep-stone to hunt for buried treasures. The peep-stone story can no longer be set aside as a vicious story circulated by those who wished to persecute the budding Prophet,¹⁴ for this

participant in an action to be an eye-witness to that action. In the present instance Hale claims to be reporting a direct statement by Smith to him and either Joseph did actually refer to his peeking as “glass-looking” or Hale must be accused of stating a falsehood.

¹³ The dollar amounts are barely visible in the water-soaked area and do not show up either on Xerox or photostatic reproductions. All but the second item are discernible in color photographs but even on the original with high power magnification it is not entirely certain if the costs reads \$2.50 or \$3.50.

¹⁴ Francis Kirkham (*op. cit.* i, 469; ii, 488, 495; cf. i, 473) tries to attribute the “origin and emphasis” upon Joseph Smith’s use of a peep-stone to Eber D. Howe’s *Mormonism Unveiled*, 1834. Dr. Hugh Nibley of Brigham Young University, on the other hand, sought to derive the peep-stone motif from an article in the *Rochester Gem* (May 15, 1830,

new evidence, dating four years before he founded his church, witnesses incontrovertibly to Joseph's early "glass-looking" activities.

The Purple Account

William D. Purple of Greene, N.Y., had moved to South Bainbridge some fifteen miles distant to enter into medical practice about two years prior to Smith's 1826 trial. When the trial was held early in 1826 Dr. Purple was present and was invited by his friend Justice Neely to take notes. In all probability it was his notes that were entered into Neely's Docket Book, or at least provided the basis for the record of the trial recorded there.¹⁵ A few years later Dr. Purple returned to Greene where he spent the remainder of his life. From time to time he told acquaintances about the legal difficulties encountered by young Joseph Smith in Bainbridge, but in 1877 he committed his reminiscences to writing and they were published in the newspapers of the area.¹⁶ At the time of publication Dr. Purple's

p. 15 — original in Local History Room, Rochester Public Library) and an alleged implementation of this motif by articles in Obediah Dogberry's Palmyra *Reflector*. (*Reflector* text from June and July 1830 issues, in Kirkham, *op. cit.* i, 273-277; January to March 1831 issues, *Id.* ii, 64-76.) Because Dr. Nibley thought that the language of Benton's article sounded similar to the *Gem* and the *Reflector*, both of whom, like Benton, made passing references to the new sect of "Wilkinsonians," Nibley confidently asserts that Benton had "most certainly read Mr. Dogberry's articles." He further imagines that Benton combined the peep-stone motif derived from Dogberry and others with elements which Benton distorted from Smith's 1830 Bainbridge trial so as to fabricate "an imaginary trial for which he cannot and dare not even give the year." (*The Myth Makers*, 1961, pp. 151, 154f. Cf. Kirkham, *op. cit.*, ii, 498 — "probably no such trial occurred" since Benton "quotes in a distorted manner the 1830 trial".) Such flights of fancy will not stand up in the face of the actual contemporary bills submitted for the trial of "Joseph Smith The Glass looker."

¹⁵ Cf. Hill, *op. cit.*, pp. 229 and fn.; on Purple's account not dependent upon notes cf. Nibley, *op. cit.* p. 144f.

¹⁶ The account appeared in *The Chenango Union*, May 2, 1877, xxx, p. 3 under the heading, "Joseph Smith, the Originator of Mormonism. Historical Reminiscences of the town of Afton" and in another printing under the same title. The latter printing is found clipped out and pasted in the "Dr. Purple Scrapbook" pp. 60-[62] in the public library in Greene, New York. The account also became the basis of an article in

retentive memory had won him a reputation as a reliable historian of local events, and the trustworthy character of this honored physician guaranteed the truthfulness of the account. When his account was rediscovered in 1947 in the pages of *The Chenango Union* Mormon writers immediately attacked the trustworthiness of the story, challenged Dr. Purple's integrity and even questioned whether he was correct in speaking of Albert Neely as being the justice in 1826.¹⁷ However, the discovery of Justice Neely's

The Democrat, Montrose, Pa., September 19, 1877. The printed account in *The Chenango Union* was rediscovered in 1947 by Miss Helen L. Fairbanks (cf. Brodie, *op. cit.* p. 440f.) and has been reprinted in full in Kirkham, *op. cit.* ii, 362-368, and with interspersed vigorous objections i, 475-485; also in Jerald and Sandra Tanner, *Joseph Smith and Money Digging*, pp. 23-28 with interspersed commentary; and in William Mulder and A. Russel Mortensen, *Among, the Mormons*, 1958, pp. 33-38. That Dr. Purple was in Bainbridge in 1826 is attested by a bill of Justice of the Peace Zechariah Tarble in issuing a Search Warrant on both May 16th and 26th, 1826 "on the application of William D. Purple," to search for his stolen coat. It is further evidenced in a bill of "Knapp & Purple" for physician services to persons in the township, from February 9 to 21, 1827. Dr. Purple reportedly also corresponded about the trial with Mrs. Dan Holleran, an ardent South Bainbridge (now Afton) historian. However, her daughter, Mrs. Mildred Klingman of Afton, has lost track of this correspondence and other relatives are equally at a loss in providing any clue as to what became of the letters.

¹⁷ Dr. Purple's high character and above-average memory are praised in several obituaries in the "Dr. Purple Scrapbook" (pp. 54-56; excerpts in Mrs. Brodie's notes in the Utah State Historical Society preserved among the papers of Mr. Stanley Ivins, to whose labors on the 1826 trial we are greatly indebted).

Mr. Kirkham attacks Dr. Purple's account because it seems to him an "exaggerated and fairylike story" to have Joseph Smith report that he discovered where to find his own personal seer-stone by looking into the stone of a neighbor girl and seeing his stone 150 miles away under the roots of a tree by a small stream that flows into Lake Erie (*op. cit.* i, 478f.). Interestingly, Smith was not alone in claiming to find a seer-stone in this manner, for a young girl in Kirtland in 1835 told Edward Partridge that she "sees by the help of a stone. She told me she saw a seer's stone for me; it was a small blue stone with a hole in one corner; that it was 6 or 8 feet in the ground, not far from the lake shore a little west of Buffalo on a hill, a tree growing near the spot — I think she said it was near the point of a hill" ("Journal of Edward Partridge," December 27, 1835, p. 1 typescript in Church Historian's Office, Salt Lake City, kindly supplied by an alert Mormon scholar, Mr. Danel Bachman). It is quite likely that in 1835 Smith was still telling the same story and the girl drafted her story along the same lines. As late as 1841 Joseph held that "every man

bill has now vindicated the general accuracy of Dr. Purple's reminiscence, although it does correct him as to the exact date, March 20th. He had dated the trial the end of February, remarkably close considering his reminiscence was written some fifty years after the event. The bills support Dr. Purple's story to an amazing degree, even to some details that could only have come from an eye-witness. There is in Constable De Zeng's bill a charge listed for "notifying two justices." In keeping with the practice of the period, as evidenced both in the bills of that day and the laws of the state, this indicates that a three-man "Court of Special Sessions" was convened to try the case. Dr. Purple's account in the original printing makes an incidental reference to this fact in quoting Mr. Stowell as saying he believed Smith "could see things fifty feet below the surface of the earth, as plain as the witness could see what was on the Justices' table". In modern reprints of this account,

who lived on earth was entitled to a seer stone, and should have one" (full text in Tanner, *Joseph Smith and Money Digging* pp. 9f.). Dr. Purple could hardly have modeled his account on the unpublished diary entry. If a link exists between the two stories, the common factor to both is Joseph Smith. Joseph's father mentioned to Fayette Lapham that his son had found his seer-stone by looking in the seer-stone of another person (*Historical Magazine*, May 1870, Second Series vii, 306; reprinted in Kirkham, *op. cit.* ii, 384).

Dr. Nibley attacks the Purple account on the basis that Dr. Purple states that Smith was arrested on the charge of being a "vagrant" and need not have made the long confession attributed to him by Dr. Purple but only have shown he had a job working for Stowell to establish his innocence (*op. cit.* pp. 146-149). Dr. Purple's memory has doubtless faltered here, probably reflecting the popular feeling about Smith rather than the formal charge which the Benton account, much closer to the time, more accurately gives as being "a disorderly person."

Mrs. F. L. Stewart tried to undermine Dr. Purple's reference to Albert Neely as the presiding justice by questioning "was Albert Neely a justice of the peace in Bainbridge in 1826?" Then she adds, "No known records indicate that he was a justice in Bainbridge in 1826." (*Exploding the Myth about Joseph Smith, the Mormon Prophet*, 1967, pp. 69f.) In May 1971 the writer verified that Mr. Neely was indeed a justice in Bainbridge in 1826 when he ran across the papers commissioning him such, dated November 16, 1825 (copy kindly supplied for the author's files by County Historian Mae Smith). Discovery two months later of the actual bill submitted by Neely to the county in 1826 disposes of Mrs. Stewart's question with finality.

“Justices” (plural) has been made singular (Justice’s),¹⁸ undoubtedly because there was nothing else in the Purple account to suggest that more than one justice was present. Constable De Zeng’s bill now confirms that there most assuredly was more than one justice summoned for the trial and that Dr. Purple’s account merits consideration as a valid source of information on the 1826 trial.

The Official Trial Record

Four years before Dr. Purple’s account was published the actual trial record taken from Albert Neely’s Docket Book was made public. This official trial record had been torn from Mr. Neely’s book by his niece, Miss Emily Pearsall, and taken to Utah with her when she went to serve as a missionary under Bishop Daniel S. Tuttle.¹⁹ Before her death in 1872, Charles Marshall, a British journalist visiting Salt Lake City, was shown the document, copied it and upon returning to England published it in *Fraser’s Magazine* in 1873.²⁰ After Miss Pearsall’s death,

¹⁸ The plural appears both in *The Chenango Union* and in the “Scrapbook” printing, but the Montrose *Democrat* (September 19, 1877) as well as all subsequent modern printings derived from the typed transcript made after the article’s rediscovery read “Justice’s.” The plural reading was drawn to the writer’s attention by Mrs. Charlotte Spicer, Local History Librarian of the Guernsey Memorial Library of Norwich, N.Y. (letter February 3, 1970).

¹⁹ On Miss Pearsall see Bishop Daniel Tuttle, *Reminiscences of a Missionary Bishop*, 1906, pp. 272, 397f; and Clarence E. and Hettie May Pearsall and Harry L. Neall, *History and Genealogy of the Pearsall Family in England and America*, 1928, ii, 1143f, 1151. Dr. Nibley slurs her, calling the 37-year-old Miss Pearsall “a zealous old maid . . . who lived right in the Tuttle home and would do anything to assist her superior,” “a gossipy old house-keeper” and an “old maid house-keeper” (*op. cit.* pp. 142f.).

²⁰ “The Original Prophet,” *Fraser’s Magazine*, February 1873, New Series vii, 229f. Reprinted in *Eclectic Magazine*, New York, April 1873, p. 483, and in Tanner, *Joseph Smith’s 1826 Trial*, p. 1f. While it is possible that Dr. Purple heard of the 1873 printing, as Nibley speculates (*op. cit.* p. 143), and was thus prodded to record his own recollection, it is more likely that he was stimulated by an article in his home town paper (*Chenango American*, March 29, 1877, xxii, 2) a month prior, concerning “John D. Lee Shot to Death” and his part in the massacre conducted by the Mormons at Mountain Meadows. Regardless of the motivation, it

Bishop Tuttle fell heir to the Neely trial record, and unaware of its previous publication by Marshall, announced he was publishing it for the first time in his article that appeared in the 1883 *New Schaff-Herzog Encyclopedia*.²¹ In this publication the Bishop omitted the court costs that had appeared at the end of the record in the *Fraser's* printing, apparently feeling they were not germane to his general article on the Mormons. Before the

is clear from a comparison with the official record that neither account borrowed from the other, as Kirkham acknowledges (*op. cit.* i, 467; ii, 485, 493). The disparities listed by Hill (*op. cit.* pp. 226, 228-230) are not mutually exclusive, as he in at least one instance admits (*Id.* p. 229), and can either be harmonized or credited to a lapse of memory on Dr. Purple's part. Cf. further Tanner, *Joseph Smith and Money Digging*, pp. 23-29, which errs only in making Horace and Arad Stowell sons instead of cousins of Josiah.

²¹ "Mormons," *New Schaff-Herzog Encyclopedia*, 1883, ii, 1576 (vol. iii in 1891 ed.). Reprinted in Kirkham, *op. cit.* ii, 359-362. Kirkham tries to discredit the account on the basis that: A. the *Schaff-Herzog Encyclopedia* replaced the Bishop's entire article with one by a different author in the 1910 edition, showing that the editor knew the trial record could not be supported (i, 386; ii, 480, 430, 442, 497); B. the Bishop was in Utah at the time he received the document and had no way of checking its authenticity (i, 389; ii, 482); C. in the Bishop's later, strongly "anti-Mormon" book he makes no reference to the trial record, showing he had abandoned belief in its authenticity (i, 489; ii, 357). It should be noted in reply to these unfounded assumptions that the Bishop was called to the work in Utah from a pastorate at Morris, N.Y. (some 50 miles from Bainbridge) where he knew members of the Pearsall family ("Bishop Tuttle's Private Register" i, entries: June 1864 — Edward Pearsall funeral; September 1864 — Francis Pearsall funeral. Missouri Diocese, St. Louis). Further his preaching record shows visits to Greene (Dr. Purple's home) and Oxford, both within a few miles of South Bainbridge, during his pastorate and subsequently after becoming Bishop of Utah. ("Register" i, entries under June 26, 1864; March 28, 1867; November 5, 1871; November 5, 1874; ii, entries November 17, 1877; February 3, 1881; December 19, 1883). In addition, Bishop Tuttle's *Reminiscences*, 1906, is designed to be a record of his life's activities and not an "anti-Mormon" book, the Mormons being mentioned favorably on several occasions (cf. pp. 58-60; 110). As to his not mentioning the trial record, the Bishop writes that "Smith was up more than once, when a youth, before justices of the peace in Central New York for getting money under false pretences, by looking with his *peep* stone" (p. 327). Thus, far from denying the authenticity of the previously published record, he asserts his firm belief that Smith was so tried on several occasions.

Bishop left Utah in September of 1886, he turned the record over to the Methodists there who printed it, including the court costs, in their *Utah Christian Advocate* along with the Bishop's accompanying letter.²² In the letter Bishop Tuttle wrote that Miss Pearsall's "father or uncle was a Justice of the Peace in Bainbridge, Chenango Co., New York, in Jo. Smith's time, and before him Smith was tried. Miss Pearsall tore the leaves out of the record found in her father's house and brought them to me."²³ Although the Bishop did not give the uncle's name, the *Pearsall Genealogy* makes it clear that her uncle was indeed the same Albert Neely whose recently discovered bill of costs shows he did hear Joseph Smith's case in 1826.

The Mormons made no reply to the official record when it was first published,²⁴ for what can one reply to the actual court record. However, after the Methodists received and made their

²² "A Document Discovered," *Utah Christian Advocate*, January, 1886, iii (misnumbered ii, No. 13), p. 1 (copies at Drew University and Utah State Historical Society). Bishop Tuttle was appointed Bishop of Missouri August 9, 1886 (*Reminiscences*, p. 303) and moved to St. Louis where he spent the remaining years of his service until his death there in 1923. The record apparently was not returned to the Bishop since it is neither on file at the Diocese Office, nor with his personal effects preserved by his grandson, Wallace Tuttle of St. Louis, nor with his library turned over to the St. Louis Public Library.

²³ Justice of the Peace Courts are not courts of record (cf. Kirkham, *op. cit.* ii, 431) and as such their docket books are not required to be kept on file at the county court house, although the townships could require them to be filed with them. However, most of them ended up either being handed down in the justice's family, or eventually being discarded and destroyed. Therefore there was no criminal disfiguring of official documents involved in Miss Pearsall's tearing pages from a family heirloom, in spite of what Dr. Nibley either ignorantly or deceptively suggests (*op. cit.* p. 141). Bishop Tuttle could not recall whether Miss Pearsall's father or uncle had tried the case, and Dr. Nibley twists this to mean that Miss Pearsall herself "did not even know whether he [her father] or her uncle had been the justice" and even asserts that she obviously never even asked her father about the pages she tore out (*Id.*). Anyone with normal reading ability who has looked at Bishop Tuttle's words needs only this to refute Dr. Nibley's assertions.

²⁴ Kirkham was unable to turn up any reply in Mormon publications of the day (*op. cit.* ii, 441, 473f.) and infers from this that everyone knew the record was not genuine; but surely if this could have been shown, the Mormon writers would have heralded the "fraud" as further evidence of the feeble attempts to assail their Prophet.

own printing of it, the document itself disappeared,²⁵ and because the original manuscript was no longer available for scholars to study, questions were raised about the genuineness of the record. The discovery of the 1826 bills, however, establishes the Neely record beyond any further doubt because the official record and the trial bills corroborate each other so precisely. The Neely trial record and the bill submitted by him to the county both place the date of the trial on March 20, 1826. Both also agree exactly on the total costs to Mr. Neely of \$2.68. Both also are in agreement on the nature of the charge, the bill listing it as a "misdemeanor" and the trial record defining it as "a disorderly person and an Impostor."

In addition to the precise points of agreement between the trial record and the Neely bill, which go beyond mere coincidence, the individual costs listed at the end of the official record stand in exact agreement both with the amounts prescribed by state law and with the practices of the justices in the Bainbridge area as seen in their bills submitted to the county during that period. The costs for the case as itemized at the end of Neely's Docket Record are given as:²⁶

warrant 19 cts, complaint upon oath 25, 7 Witnesses 87½,
Recognizance 25, Mittimus 19, Recognizances of witnesses
75, Subpoena 18 — \$2.68

A glance at the bills submitted by the justices between 1825 and 1830 shows that warrants were issued at 19¢ each, as in Justice Chamberlain's bill of 1830 or Justice Tarble's bill of 1826. Examination under oath of the complainant, which was required by law whenever the complaint concerned a criminal offence, was billed at 25¢ whether it was referred to as "com-

²⁵ If it had been returned to the Episcopal Church in Salt Lake City, it would have perished in the fire that destroyed their records many years ago. (Bishop Richard S. Watson, letter March 10, 1970.) The Methodist Rocky Mountain Conference, which now includes Utah, does not have it in its holdings. (Rev. Robert Runnells, letter July 28, 1970; phone call to Archivist Dr. Martin Rist, 1970.) It is possible that the editor of the *Utah Christian Advocate* may have kept it, but it is not known who served in that capacity so as to search for living descendants. Since the mission work in Utah had been placed under several different conferences it is remotely possible that it may be somewhere among their records.

²⁶ *Utah Christian Advocate* printing with correction from *Fraser's* of "Recognizance or witness" to "Recognizances of witnesses."

plaint upon oath” as in the Neely record or “oath and examination” as in Tarble’s bill.²⁷ The standard charge for a recognizance, whether of a defendant or of the witness, was always billed at 25¢, so that the “recognizances of witnesses 75”¢ that appears in the Neely bill represents three witnesses recognized.²⁸ Subpoenas were fixed by law at 6¢ each so that again three persons are represented in the 18¢ charge.²⁹ The remaining subpoenas appear in the listing of “7 witnesses 87½”¢. While the law allowed a charge of 6¢ for a subpoena and 6¢ for administering an oath, somehow when the two were billed jointly by the Bainbridge justices the cost was billed at 12½¢ instead of the expected 12¢, as is evidenced in William Bank[s’] 1828 bill recording “Subpoena & Swearing two Witnesses on Examination 0.25.” According to the manuals of the day issued to aid the justices of the peace in performing their duties, the final item, “Mittimus,” was also known as an order or a “warrant of commitment.” This item, under the latter term, also appears on the bills of the period charged at 19¢.³⁰ There is, therefore, complete agreement at every point between the costs appearing at the conclusion of the official trial record and the actual verifiable charges made by the other justices in Mr. Neely’s own town at that precise time. In fact, so well do the Neely trial costs correlate with the prescribed legal procedures and practices of the day, and especially with

²⁷ On the mandatory oath see *Revised Statutes* of 1829, ii, 706 Sec. 2. When Dr. Purple was seeking to recover his coat the 1826 bill of Justice Tarble listed “oath & examination of William D. Purple” at 25¢ as well as the issuance of the warrant at 19¢. Even the order is the same as on the Neely record, with the warrant listed first followed by the charge for the oath administered to the complainant.

²⁸ *Revised Statutes* ii, 749 Sec. 1. Cf. e.g. William Bank[s’] bill of 1828: “recognizing two witnessis 0.50,” “recognizing three witnessis 0.75”¢.

²⁹ *Revised Statutes*, ii, 749 Sec. 1, and cf. the 1828 bill of William Banks: “subpoena for Witness 0.06”; the 1830 bill of Chamberlin: “3 Subpaenes 18”; the 1826 bill of Tarble: “4 Subpaina 24”¢.

³⁰ Inquiry about the legal processes in 1826, directed to Mr. James M. Flavin[,] Acting Clerk of the New York State Court of Appeals, resulted in a five-page clarification from lawyer John Moore. Mr. Moore’s check of the manuals of Edwards (1825) and Waterman (1830) establish that the order of commitment and mittimus were interchangeable (letter August 10, 1973 p. 3). State law fixed pre-trial commitment at 19¢ and post-trial at 25¢ (*Revised Statutes* ii, 749f). See below note 36.

the details supplied by Constable De Zeng's bill, that one can with reasonable accuracy reconstruct the order of events as the young glass-looker would have experienced them.

When Joseph was arrested on the warrant issued by Albert Neely, he would have been brought before Neely for a preliminary examination to determine whether he should be released as innocent of the charges or, if the evidence seemed sufficient, brought to trial. During the examination Joseph's statement would be taken (probably not under oath), and witnesses for and against the accused were sworn and examined.³¹ Both before and during the examination Joseph remained under guard, with Constable De Zeng in "attendance with Prisoner two days & 1 night," referring to the day of the examination and the day and night preceding.³² Since the evidence appeared sufficient to show that Smith was guilty as charged, he was ordered held for trial. In such situations, if the defendant could not post bail the justice at his discretion could either order the arresting officer to continue to keep the prisoner in his custody, or he could commit him to jail on a warrant of "commitment for want of bail," sometimes referred to as a "mittimus."³³ The latter appears to have been the fate of young Joseph since De Zeng's bill records "10 miles travel with Mittimus to take him" — and the wording should probably be completed by adding "to gaol." Shortly after this Joseph's bail was posted as the entry "recognizance 25" cents would indicate. The material witnesses, three in this instance, were meanwhile also put under recognizances to appear at the forth-coming Court of Special Sessions (Neely's "recognizances of witnesses 75" cents).³⁴ The Court was summoned to meet by Justice Neely through Constable De Zeng's "notifying two Justices." At this point the course of events becomes somewhat

³¹ *Revised Statutes* ii, 708 Sec. 12, 13, 14, 17. The law expressly stated in regard to the defendant that "such examination shall not be on oath" but it is possible that this prohibition was not strictly observed and that the defendant might be put under oath, as Mr. Moore points out (letter p. 3).

³² Cf. Constable Redfield's 1828 bill, May 19th re: Jacob Lee, "keeping him part of two days & one night and attending the examination."

³³ *Revised Statutes* ii, 709 Sec. 15; 712 Sec. 5; cf. 709 Sec. 20.

³⁴ On defendant and witnesses recognizances see *Revised Statutes* ii, 707 Sec. 8; 709 Sec. 21.

difficult to trace, mainly because we lack the other two justices' bills which might clarify the trial proceedings. Probably what happened was that the Court of Special Sessions found young Smith guilty, as Neely records, but instead of imposing sentence, since he was a minor "he was designedly allowed to escape," as the Benton article expresses it. Perhaps an off-the-record proposition was made giving Joseph the option of leaving the area shortly or face sentencing, and it would explain why no reference appears in the official record to the sentencing of the prisoner.³⁵ Another possibility, of course, is that Joseph jumped bail and when the Court of Special Sessions met they may have decided not to pursue the matter further, hoping the youth had learned his lesson.³⁶ Dr. Purple, in any event, carried away the impression that "the prisoner was discharged, and

³⁵ This procedure is still used in the writer's area, with the prisoner forfeiting bail.

³⁶ In the Sidney (N.Y.) *Tri-Town News*, August 25, 1971, p. 6 the writer regarded the "Mittimus 19"¢ as the post-trial order to commit Smith to jail, with Smith allowed to escape on the way to jail. This seemed reasonable because the county jail was some 26 miles (cf. Constable Chamberlin's 1826 bill, "carrying prisoners to Norwich on mitimas 26 miles"), and De Zeng's "10 miles travel . . ." with the place left blank seemed to favor this view. Furthermore, De Z[e]ng's 1825 bill uses "mittimus" for the post-trial commitment ("going to Norwich with Crandall & Porter on mitmaus") and holding for trial is expressed as "keeping Crandall & Porter in custody one day & night" (without a mittimus order for such on the J.P. bill). However, the 19¢ charge attached to the mittimus marks it as the pre-trial "commitment for want of bail". (*Revised Statutes* ii, 749 Sec. 1) and not the post-trial "warrant of commitment, on conviction, twenty-five cents" (Id. 750 Sec. 2). The few available bills bearing on the matter seem to consistently observe this distinction. (Banks 1828, Bigelow 1825.) Consequently we have felt compelled to abandon the earlier view.

This understanding also opens the unlikely reconstruction that Neely records only the pre-trial examination where the defendant's and witnesses' statements are taken (*Revised Statutes* ii, 708 Sec. 16; 709 Sec. 19), and Dr. Purple records the trial itself with 12 witnesses subpoenaed instead of the 10 evidenced in the Neely record (in the "7 witnesses" and 3 "subpoenas"). However, in that event the 10 pre-trial subpoenas are unexplainably absent from both constables' bills. It seems preferable to assume that Neely either forgot to record the costs of two of the subpoenas (as Chamberlin did with his warrant on his 1830 bill), or that they appear on one of the two justices' bills which have not been located as yet.

in a few weeks left the town.” In either case the costs set forth in the Neely record correlate in every detail with the evidence about the trial gathered from the justices’ bills of the period and with what is known to have been the legal procedure for that time and place.

In addition to the correlations that the Neely record has with the 1826 bills, further verification of the authenticity of the Neely record is found in the fact that the names of all those whom he lists as participants in the trial can be verified as real persons who were actually living in the South Bainbridge area in 1826. For example, Arad Stowell, a relative of Josiah’s, was a School Commissioner during that year and his bill appears among the 1826 bills from Bainbridge.³⁷ The seemingly disconnected situation in which the warrant against Smith was sworn out, according to the Neely record, by a certain Peter G. Bridgman (or Bridgeman), suddenly becomes meaningful when it is learned that Bridgman was the nephew of Josiah Stowell and his wife, Miriam Bridgman.³⁸ Apparently he became deeply concerned when he saw his uncle’s money being transferred bit-by-bit into the pockets of a young “glass-looking” confidence man named Joseph Smith. To safeguard the fortune of his aunt and cousins he took vigorous action by swearing out the warrant, something that would have been difficult for either Mrs. Stowell or her sons to do without raising an internal family argument. Everything we know about this crusading young 22-year-old Bridgman suggests that he had just the determined personality that would do such a thing. Within a month after the trial he was licensed as an exhorter by the Methodists and within three years had helped establish the West Bainbridge Methodist Church. Upon his death in 1872 his fellow ministers characterized him as “an ardent Methodist

³⁷ Arad Stowell and David McMaster, who most likely is the McMaster mentioned in the trial, were two of the first trustees of the South Bainbridge Presbyterian Church, organized in 1825. (James Smith, *History of Chenango and Madison Counties, N.Y.*, 1880, p. 150.) In 1828 McMaster was Commissioner of Highways as his county bill shows. For further collection of the evidence on the trial participants see Tanner, *Joseph Smith and Money Digging*, pp. 36-38, and Stanley Ivins’ notes p. 26 in Utah State Historical Society.

³⁸ Burt Bridgman and Joseph C. Bridgman, *Genealogy of the Bridgman Family*, 1894, pp. 129, 116, 118-119.

and any attack upon either the doctrines or the polity of the M.E. Church, within his field of labor, was sure to be repelled by him with a vigorous hand.”³⁹

Neely's trial record page also refers to another relative of Josiah Stowell, a certain Simpson Stowell of Palmyra. It was while visiting Simpson's home near Palmyra that Josiah is said to have seen Joseph Smith demonstrate his glass-looking ability. Simpson is nowhere mentioned in the voluminous *Stowell Genealogy*, nor does he appear either in the census records of 1820 and 1830 or in the newspapers of the area. Yet he can now be placed in the area at the right time through a land purchase he made January 29, 1827, the deed to which describes him as “Simpson Stowell of the town of Manchester,”⁴⁰ the same town in which the Smiths lived just south of Palmyra. Again, a passing remark is made in the Neely record to Joseph Smith's attending school while living with Josiah Stowell. This

³⁹ *Minutes* Wyoming Annual Conference, Methodist Episcopal Church, 1872, p. 34. Also cf. below note 56. Bridgman served as one of the original trustees of the West Bainbridge (now North Afton) Methodist Church, organized February 17, 1829 (“Incorporation of Religious Societies,” p. 107, Chenango County Office Building, Information kindly supplied by Mrs. Louella B. Nelson, Acting Deputy Clerk).

⁴⁰ *Deeds*, Lib. 45, 400, Ontario County Court House, Canandaigua, N.Y. A search of Palmyra's *Wayne Sentinel* both by the writer and by Mr. Jerald Tanner failed to disclose any mention of Simpson Stowell. The Ontario County papers housed in Canandaigua as well as the 1820 and 1830 census of Palmyra and Manchester showed no reference to him. Even the 1830 and 1840 census of Phelps, where Simpson purchased land in 1827, did not contain his name that we could discover. Dr. Larry Porter, in his BYU thesis, indicates he could not place him in the Palmyra area, but in the card file of the Tioga County Historical Society he did find reference to a Simpson Stowell, born July 29, 1791, died March 27, 1868 with burial in the Smithboro Cemetery, New Township of Barton, Tioga County. Dr. Porter finds the place of burial interesting since in 1833 Josiah Stowell “became a resident of this same locale, his wife Miriam Bridgman, dying at Smithboro, New York, September 23, 1833” (“A Study of the Origins of the Church of Jesus Christ of Latter Day Saints in the States of New York and Pennsylvania, 1816-1831,” August 1971, p. 123 fn.). With only this meager verification Dr. Porter cited the trial record as factual in regard to Simpson Stowell (Id.; also *BYU Studies*, Spring 1970, x, 366). Martin Harris stated to Joel Tiffany that Josiah actually participated with Smith and the other money-diggers in their treasure hunting during his stay at Palmyra (*Tiffany's Monthly*, [August ?] 1859, v, 164).

was independently attested years ago by a resident of Amboy, Illinois, Mr. Asa B. Searles, who when information was being collected on the early settlers of Amboy (he came in 1837) for the county history, recalled that when he had lived at South Bainbridge for four or five years, he “attended school where his brother Lemuel taught. Joe Smith, the coming prophet, was a fellow-pupil.”⁴¹ Thus the Neely trial record displays a verifiable accuracy in all its personal, historical and legal details that should be more than sufficient to establish its genuineness beyond question.

Mormon Objections

However, because the official record contains statements in the testimony of Joseph Smith and others which explicitly link Joseph with a superstitious type of stone-peeping and treasure-hunting, Mormons have been reluctant to admit the force of the evidence⁴² and have sought to discredit the document from every angle possible. Sometimes the attack has taken the form of rather inane questions that hardly merit attention. Thus Dr. Hugh Nibley of Brigham Young University asks, “Why didn’t he [Bishop Tuttle] publish it *at once*? Why did he arrange to . . . publish it years later in a foreign country?”⁴³ But the Bishop had an extremely heavy schedule, as his “Private Register” shows, traveling in the east to raise money for his work as well as throughout Utah, Montana, and Idaho, so why should he have published it at once? The fact that in his 1883 article he mistakingly speaks of the record as “never before published” shows he did not “arrange” to publish it “in a foreign country” in the 1873 *Fraser’s Magazine*. Again, Dr. Nibley wants to know why the Bishop did not send Miss Pearsall back immediately

⁴¹ *History of Lee County*, 1881, p. 397. Mr. Searles adds that with young Joe he “had many a wrestle; but young Smith was a large, strong fellow and could handle any of the boys.”

⁴² Mr. Kirkham asks, “How could he be a prophet of God, the leader of the Restored Church to these tens of thousands, if he had been the superstitious fraud which ‘the pages from a record’ declared he confessed to be?” (*op. cit.* i, 486f; ii, 475f). Dr. Nibley concludes that “*if* this court record is authentic it is the most damning evidence in existence against Joseph Smith” (*op. cit.* p. 142).

⁴³ Nibley, *Id.* p. 141.

to find the Docket Book.⁴⁴ It might be asked in return why the Bishop should subject her to a rugged trip of some four thousand miles when he already had the document and he knew her word was truthful. Would a record book with some pages missing have silenced all further objections? Similarly, Mrs. F. L. Stewart in exploiting the fact that the Bishop made no further mention of the document after his publication of it, asks whether it could be that Albert Neely's son, Bishop Henry Adams Neely, informed his cohort Bishop Tuttle that the record was a hoax and the Bishop therefore dropped the matter.⁴⁵ But how do we know he did not assure Tuttle it was genuine so that Tuttle didn't bring the matter up again because he thought the issue was settled?

At other times the Mormons' objections take the form of thoughtless assertions. Mr. Kirk in substance asserts that if a court record had existed Hurlbut would have uncovered it or at least it would have showed up in Eber Howe's *Mormonism Unveiled*.⁴⁶ But Hurlbut gathered no testimonies from Chenango County where the trial took place and never even got to central Pennsylvania to interview personally Joseph Smith's in-laws, as *The Susquehanna Register*, May 1, 1834, shows. Since Howe's book does not mention Smith's 1830 trial either, should we conclude that that trial never took place as well? Mr. Kirkham further asserts that if such a trial record had existed it would have been used in the 1830 trial.⁴⁷ But we have no transcript of the 1830 trial to know what was or was not used.

Some objections appear to have genuine validity but will not stand up in the face of closer examination. Mr. Kirkham, who devotes over a hundred and fifty pages of his two volumes to attempts to disprove the 1826 trial, reports that Chenango County has no court records earlier than 1850 and none apparently were destroyed, the point seemingly being that if none go back earlier than 1850 then no 1826 trial record could have existed.⁴⁸ The writer, however, found numerous volumes of old

⁴⁴ *Id.* p. 142.

⁴⁵ Stewart, *op. cit.* p. 74.

⁴⁶ Kirkham, *op. cit.* i, 386; ii, 480; cf i, 469f.

⁴⁷ *Id.* ii, 495, 489f, 456f.

⁴⁸ Kirkham, *op. cit.* i, 389; ii, 482, 443.

court record books in the basement of the county jail, some containing cases appealed from the court of Albert Neely in 1827. Of course, justice of the peace court record books were not required to be filed with the county, so the whole criticism falls apart upon closer examination. Mr. Kirkham also raises the question of whether the trial record brought to Utah by Miss Pearsall could have been altered by Charles Marshall or Bishop Tuttle prior to publication since neither of them published the record until after Miss Pearsall's death.⁴⁹ However, Marshall necessarily obtained his copy prior to Miss Pearsall's death for his visit to Salt Lake was in the spring of 1871 and his first articles describing his visit appeared in the June and July issues of *Fraser's Magazine*. When compared with the other two printings of the record the slight variations appear to arise from a common difficulty in reading the handwritten copy. It thus becomes evident that just one document lies behind all three printings. The knowledgeable young Mormon scholar, Michael Marquardt, has made a detailed comparison of the three and comments, "my comparison of the printed accounts of *Fraser's Magazine* (1873), *New Schaff-Herzog Encyclopedia . . .* (1883), and *Utah Christian Advocate* (1886) seem to confirm rather than to deny the authenticity of the trial of Joseph Smith the Glasslooker as taken individually from the Docket Book of Judge Albert Neely."⁵⁰

Mr. Kirkham raises an even weightier objection when he claims that the Neely record does not follow the pattern that a genuine justice of the peace record book was required to follow, and shows that it "was written by a person totally unfamiliar with court procedure." He lists as irregularities the fact that it puts the defendant on the stand first, cites witnesses without recording they had been sworn, records their testimonies when it was not required to be recorded in justice of the peace records, and gives the verdict of guilty without indicating the sentence that was given.⁵¹ He cites from Bender's 1837 *Manual* a list of items that should appear in a justice's

⁴⁹ *Id.* ii, 496f; i, 488f; cf. i, 486, ii, 474, 492.

⁵⁰ Michael Marquardt, letter August 11, 1973. Marshall, apparently in a copying error, omitted the thirty-five word summary of Horace Stowell's testimony.

⁵¹ Kirkham, *op. cit.* i, 384f, 388; ii, 431, 492, 481f.

docket book, a number of which are missing from the Neely record, such as the addresses of the defendant and witnesses, the name of the arresting officer, and the plea. However, if Neely's record falls short of the pattern set down in Bender's *Manual* so do the other justice books of the period, for Mr. Kirkham ruins his own point by noting that the justice records of 1820-1830 on file at Albany "contain only the names of the plaintiff, the defendant, the statement of the case, the date of judgment, the amount of judgment, the cost and fees," lacking all the points for which he faults Neely's record.⁵² As for the irregularities, an 1839-1842 docket book from New Berlin, Chenango County (about 30 miles from South Bainbridge), recently microfilmed by the LDS Genealogical Society exhibits exactly the same procedures for which Mr. Kirkham declared the Neely record "a fabrication of unknown authorship and never in the court records at all."⁵³

A final valid-sounding objection was raised by Mrs. Stewart who noticed that the Neely record refers to Joseph Smith and not to Joseph Smith, Jr., as one might have expected. She

⁵² *Id.*, i, 388; ii, 481. Mr. John Moore of the New York State Court of Appeals' office had cautioned that local magistrates, "a large number of whom were neither lawyers nor legally trained, but rather well-to-do farmers or merchants of some substance . . . did not always slavishly 'go by the book' but meted out rough and ready informal justice" ("Re: Trial of Joseph Smith, 1826," letter August 10, 1973, p. 2). The New York State Historical Society reports (letter October 27, 1971) that a justice docket from Montgomery County, N.Y., 1810-1822 does not contain the addresses of the people in the case, the offence charged, or the sentence.

⁵³ Sidney Mills Skinner, "Docket Book, 1839-1842," New Berlin, Chenango County (typescript, Guernsey Memorial Library, Norwich, on Microfilm L312C 104 Box 112). For example, in the *People vs Joseph Sheffield* no addresses are given, there is no mention of swearing the defendant or the defendant's witness, Ezekiel Shippy, and the defendant's statement is recorded first. (p. 10; typescript p. 2). In *Jeroan King vs David Webb* there is a summary of the testimony of each witness (pp. 23-25; typescript p. 5). In *James Robinson and Mahitibel Robinson vs Brown Foster* there are no addresses given, no record of anyone being sworn except James Robinson and the testimony of the witnesses is given in considerable detail (pp. 41-45; typescript pp. 8-10). The basis, therefore, on which Kirkham calls the Neely record "a fabrication . . . never in the court records at all" (ii, 431) disappears in the light of an unquestionably authentic record from the area and the period involved.

seems to suggest two possibilities, both of which rescue her prophet from the embarrassment of an 1826 trial. On the one hand it could be held that it was the father and not the son that is being tried for some superstitious practices. On the other hand, if one insists that the reference is to the Mormon leader, then the date of composition must be placed after his father's death in 1840, when he would be legitimately known simply as Joseph Smith. Thus the anachronism would prove the trial record a forgery.⁵⁴ It should be noted that the newly discovered 1826 bills are in complete agreement with the Neely record in speaking of the defendant simply as Joseph Smith. Yet there seems to be little question that it is really the son and not the father who is on trial in 1826. This not only appears from the very early Benton statement about his being a "minor," but from an early Mormon source as well. In 1835 Oliver Cowdery, Smith's associate, made a passing reference to the 1826 trial in the church's periodical, the *Messenger and Advocate*. In referring to Smith's stay in the Bainbridge area Cowdery wrote:

While in that country, some very officious person complained of him as a disorderly person, and brought him before the authorities of the county; but there being no cause of action, he was honorably acquitted.⁵⁵

Cowdery dates this event "previous to his obtaining the records of the Nephites," that is, the gold plates of the Book of Mormon. The most natural reference of this pre-1827 legal difficulty is the March 20, 1826 trial.⁵⁶ Since Cowdery's narrative was copied into Joseph Smith's 1835-1836 history compiled under Joseph's personal supervision, there is at least tacit approval of the accuracy of the statement.⁵⁷ It seems clear, therefore, from both Mormon

⁵⁴ Stewart, *op. cit.* pp. 67-69.

⁵⁵ *Messenger & Advocate*, October 1835, ii, 201.

⁵⁶ Mrs. Stewart attempts to escape the force of this Cowdery statement by relating the incident to litigation that occurred in 1829. However, Dr. Richard Anderson in reviewing Mrs. Stewart's book rightly rejects this interpretation because it "violates Cowdery's description both in location and chronology" (*BYU Studies*, Winter 1968, viii, 232). Cowdery's description of the one lodging the complaint as "officious", or meddlesome, is well suited to describe Joseph's and Josiah's feelings about the intrusion of Josiah's nephew, Peter Bridgman, into the affair.

⁵⁷ The quotation appears in the "Manuscript History," Book A-1, p. 103, in the journal portion compiled 1835-1836.

and non-Mormon early sources, that Joseph Smith Jr. and not his father was the person involved in the South Bainbridge trial. However, the evidence that ultimately undermines Mrs. Stewart's thesis is that which comes from the 1830 trial. In that trial, which admittedly relates to Joseph Smith the son, Joseph is called "Joseph Smith Jr" on Chamberlin's bill, but on the constable's bill it appears simply as "Joseph Smith." Unless one wishes to maintain that they arrested the father but tried the son, it can only be concluded that such precise distinctions as Mrs. Stewart wishes to maintain were not, in fact, observed in this early period.

On the recommendation of the Law School of Syracuse University the writer submitted the Neely trial record and the 1826 bills to the office of the New York State Court of Appeals for their legal appraisal. Their reply stated:

In view of the rather early year in the area's history and of the resultant conditions obtaining in the law-enforcement processes and judicial institutions of that day, the documents you copied certainly seem consonant with the local criminal procedure of that time.⁵⁸

There is therefore neither a legal nor a factual basis for rejecting the Neely trial record as an authentic record of Smith's 1826 trial. The main Mormon objection really seems to rest upon an emotional reaction to the admissions Smith makes in the court record, which seem tantamount to making him a religious fraud. However, at the time of the trial it was the only way he could establish that he was not a fraud. The point of the trial was that while he claimed to be a "glass-looker," he actually only pretended to have such powers and was therefore an "Impostor." Smith's only defense against this charge was to claim that he did have such ability, but had never sought customers for it, had used it very little, and really intended to give it up, as the record states:

People of State of New York vs Joseph Smith. Warrant issued upon written complaint upon oath of Peter G. Bridgman who informed that one Joseph Smith of Bainbridge was a disorderly person and an Impostor. Prisoner brought before court 20 March. Prisoner examined, says, that he came from town of Palmyra, and, had been at the house of Josiah Stowels in Bainbridge

⁵⁸ "Re: Trial of Joseph Smith, 1826" p. 5.

most of time since, had small part of time been employed in looking for mines, — but the major part had been employed by said Stowel on his farm, and going to school. That he had a certain stone, which he had occasionally looked at to determine where hidden treasures in the bowels of the earth were, that he professed to tell in this manner where gold mines were a distance under ground, and had looked for Mr. Stowel several times and informed him where he could find those treasures, and Mr. Stowel had been engaged in digging for them — that at Palmyra he had pretended to tell by looking at this stone, where coined money was buried in Pennsylvania, and while at Palmyra he had frequently ascertained in that way where lost property was of various kinds; that he had occasionally been in the habit of looking through the stone to find lost property for 3 years, but of late had pretty much given it up on account of injuring his Health, especially his eyes, made them sore — that he did not solicit business of this kind, and had always rather declined having anything to do with this business.

This line of defense now proves a source of great embarrassment to Mormons in view of the lofty claims Smith made a few years later. It may have been that Smith himself came to feel that glass-looking for treasure was somewhat beneath the dignity of a genuine prophet and this led him to omit all reference to his 1826 trial from his own 1838 history and to assert that his first legal entanglement occurred after he had organized his new church. Mormons today might even admit to an 1826 trial if they can somehow escape the Neely Record with its embarrassing testimony to Joseph's superstitious "glass-looking."⁵⁹

⁵⁹ Dr. Anderson seems willing to acknowledge an 1826 trial when he labels the Neely record "a fictitious transcript of a genuine trial" (*BYU Studies*, Winter 1968, viii, 232). Mrs. Stewart goes further and lays the groundwork for an admission of Smith's money digging, stating, "If . . . Joseph had been guilty of treasure hunting, it would seem not to disqualify him as being worthy of a divine mission," and it "would hardly preclude Joseph Smith's religious worthiness" (*op. cit.*, p. 65). Prof. Hill in the same vein states, "For the historian interested in Joseph Smith the man, it does not seem incongruous for him to have hunted for treasure with a seer stone and then to use it with full faith to receive revelations from the Lord" (*Dialogue: A Journal of Mormon Thought*, Winter 1972, vii, 78). Earlier he had noted that if the glass-looking charge proved to be authentic our generation would view him as a religious fraud, but "this is a view, however, of our own generation, not of Joseph Smith's" (*BYU Studies*, Winter 1972, xii, 231). This overlooks, however, the fact

Conclusions

Now, however, even if the Neely record could be discredited, Joseph's early glass-looking is established as an incontrovertible fact by the discovery of the bills for the 1826 trial of "Joseph Smith The Glass looker." Prof. Hill, one of the few Mormon scholars who has looked seriously at these bills in relation to Smith's trial has concluded, "There may be little doubt now, as I have indicated elsewhere, that Joseph Smith was brought to trial in 1826 on a charge, not exactly clear, associated with money digging."⁶⁰ There can be no question in this instance about the genuineness of these 1826 bills since we not only have the original bills available for examination⁶¹ but also they display the same interrelatedness with other bills as seen in the 1830 bills, thus ruling out the possibility of forgery.⁶² In addition, the handwriting on the respective bills matches the handwriting on other bills handed into the county by both Mr. Neely and Mr. De Zeng,⁶³ and the total costs of both bills are, like

that the affidavits associating Smith with money digging, published in 1834, were considered very damaging and implies that in most people's thinking even in the early nineteenth century this association seemed to label him a religious fraud.

⁶⁰ *Dialogue*, Winter 1972, vii, 77.

⁶¹ According to a letter from the County Attorney, Mr. James A. Haynes, Jr. (August 9, 1973) viewing the bills is presently being restricted until conferral with state authorities has worked out some policy procedures governing future research on all the bills. The remainder of the county bills, once stored in the county jail basement, fortunately have now been removed to drier quarters in the Historical Society Building, Norwich, but remain in a generally disorganized state.

⁶² Of the nine defendants mentioned in Neely's bill, four appear on Justice Tarble's bill, four on Constable Chamberlin's and three on De Zeng's. If the 1826 bills of Justices Bigelow and Humphrey should turn up, there should likewise be cases on those which were tried jointly with Neely as is evident from the constables' notifying them. It is possible that these two bills were among some of the 1826 bills the writer unfolded which were so water-stained the entire page was illegible. On the other hand, when the County Historian has completed the organization of all the bills they may yet show up.

⁶³ De Zeng's 1825 bill has already been alluded to. According to Bainbridge Village Clerk Marshall Andrews (letter March 2, 1970), the town records show that Neely was elected Commissioner of Schools March 7, 1826. Neely's bill for services in this capacity is extant among the 1826 bills and displays the same handwriting as his justice's bill.

the 1830 bills, recorded in the "Supervisor's Journal" for the town of Bainbridge for 1826. Therefore no longer is there any way that Smith's peep-stoning can be written off as a charge invented by his enemies after he had given the world the Book of Mormon and instituted his new religion. Although Joseph Smith and his associates later tried to depict his association with Stowell as being that of "a common laborer," as Oliver Cowdery expressed it,⁶⁴ Smith's own mother had indicated that his going to work for Stowell involved more than being a hired hand. In her history she clearly states that Stowell had sought her son's help not because he was a good worker, but because "he possessed certain keys, by which he could discern things invisible to the natural eye."⁶⁵ Furthermore, Joseph Lewis, cousin of Joseph Smith's wife and acquainted with Smith from this early period, once pointed out how ridiculous it would have been for Stowell to travel "one hundred miles more or less, to Palmyra, N.Y., to get common laborers to work in Harmony, Pa.," and he reported that Alva Hale, Smith's brother-in-law had specifically stated to him that

Joe Smith never handled one shovel full of earth in those diggings. All that Smith did was to peep with stone and hat, and give directions where and how to dig, and when and where the enchantment moved the treasure. That Smith said if he should work with his hands at digging there, he would lose the power to see with the stone.⁶⁶

In addition, sworn statements issued by half a dozen members of his wife's family and published in their county paper just a few years after Smith had organized his church, give further evidence that the Mormon Prophet had once earned part of his livelihood by hiring out as a glass-looking treasure hunter.⁶⁷

Prof. Hill went to Norwich after the discovery of Justice Neely's 1826 bill was announced and obtained copies of some other bills signed by Neely. Even though he did not see the original trial bill, it being at Yale at the time, he wrote, "As of now I am fairly convinced that the material is authentic" (letter September 3, 1971).

⁶⁴ *Messenger & Advocate*, October 1835, ii, 200.

⁶⁵ Lucy Mack Smith, *Biographical Sketches of Joseph Smith the Prophet*, 1853, p. 92.

⁶⁶ *The Amboy Journal*, June 1, 1879, xxiv, 1.

⁶⁷ *The Susquehanna Register*, May 1, 1834, p. 1 (cf. note 12). The testimonies from the *Register* were reprinted in *The New York Baptist*

In fact, testimony from some early adherents of Mormonism has disclosed that at the first Joseph even claimed he had located the plates from which he had translated his book by gazing in his Seer Stone,⁶⁸ and that he was able to use this same peepstone to obtain the translation itself. Therefore, the discovery of the 1826 bills provides a firm historical point around which to organize the massive amount of testimony concerning Smith's money digging activities. This testimony is equally strong from both of the two different locations of Smith's early activity, locations separated by over a hundred miles.⁶⁹ Such testimony appears

Register, June 13, 1834, xi, 68 (original in Colgate University), and the main portions incorporated in E. Howe's *Mormonism Unveiled*, pp. 262-269, where most Mormons have mistakenly credited Hurlbut with collecting them.

⁶⁸ Martin Harris in an 1859 interview, declared concerning Joseph's gazing powers that, "In this stone he could see many things to my certain knowledge. It was by means of this stone he first discovered these plates" (*Tiffany's Monthly* [August ?] 1859, v, 163, original in New York's Public Library, photomechanically reproduced from their copy in Tanners' *Revealing Statements by the Three Witnesses to the Book of Mormon*; reprinted in Kirkham, *op. cit.*, ii, 376f). Dr. Anderson seeks to offset Mr. Tiffany's interview by suggesting that the interview may have misquoted ("if Harris is quoted correctly") Harris' story or else, because Tiffany had read Howe's book, had "contaminated" the reporting of Martin Harris ("Joseph Smith's New York Reputation Reappraised," *BYU Studies*, Spring 1970, x, 303f.). The report is so detailed, however, that one can hardly write off that much material on the basis of misquotation or even "contamination". That the interview is a reliable reporting of Harris's beliefs in this regard is supported by the fact that several years later in Utah Harris reported having himself engaged in a money digging venture to look for more treasure directly after Smith claimed to have found the gold plates, according to a Mormon source (cf. *Utah Pioneer Biographies*, x, 65; full text in Tanners' *Joseph Smith and Money Digging*, p. 2). Hosea Stout also refers to the plates being found through the stone (*On the Mormon Frontier: The Diary of Hosea Stout*, ed. J. Brooks, ii, 593). Cf. also O. Turner, *History of the Pioneer Settlement of Phelps & Gorham's Purchase*, 1851, p. 216.

⁶⁹ Dr. Richard Anderson, in an article that needed sharp criticism from the moment it appeared (*BYU Studies*, Spring 1970, x, 283-314), has made the most definitive attempt to date to discredit the testimonies gathered in the Palmyra area. The article displays serious errors in scholarship, if not intentional misrepresentation. For example, Anderson seeks to weaken a dozen of the Palmyra testimonies collected in Howe's book (*op. cit.*, pp. 231-262) by crediting their composition to Mr. Hurlbut. To establish this he adduces what he regards as phrases

almost immediately after Smith announced his new religion in 1830 from both locations and is now indisputable as a result of the discovery of the 1826 bills. They show that the often-repeated charge of treasure hunting with a peepstone cannot be dismissed as issuing from some sort of massive, state-wide conspiracy against the founder of Mormonism. Rather it is the accumulated testimony of many who knew firsthand that before Joseph assumed the roll of Joseph Smith the Prophet, he had in fact been “Joseph Smith The Glass looker.”

Addendum

Because the two 1826 bills had not only suffered from dampness, but had severe water damage as well, Mr. Poffar hand-carried the documents to Yale University's Beinecke Library, which has one of the best document preservation centers in the country. The County Historian was immediately informed of this action and a request was made to Chenango County for permission to store their two bills there. The discoverers offered personally to bear the expense of the necessary de-acidification

common to the various affidavits demonstrating that the interviewer, Hurlbut, has so colored the language and even the substance of the statements that they are no longer valid testimony. He lists as typical Hurlbutian touches such phrases as “acquainted with . . . Smith,” “liar” and “addicted to” lying, “intemperate,” “pretended” and “digging for money” (pp. 287-289). What Dr. Anderson fails to mention is that the Pennsylvania affidavits, which appeared in *The Susquehanna Register* and which Anderson knows were gathered independent of Hurlbut (*Dialogue*, Summer 1969, iv, 25 fn.), display the same Hurlbutian traits. Five of those testimonies speak of being “acquainted with” Smith; five speak of Smith, or Smith and his associates, as a “liar,” “an imposter and a liar,” “lying impostors,” and “artful seducers.” They speak variously of him as “pretending,” “intoxicated,” and “money-digging.” Dr. Anderson's article is further crippled by following his own arbitrary rules of evidence. Whenever the testimonies make a direct statement of personal knowledge that implicates Smith in money-digging activities, Dr. Anderson dismisses the account as undoubtedly “garbled.” Thus he disposes of Roswell Nichols, Joshua Stafford, Henry Harris (p. 291) and Willard Chase (p. 297 fn.). Where the witness does not directly state that he observed Smith in the act of peeping for treasure, Dr. Anderson credits the information to “Secondhand Stories” from community gossip (p. 297, cf. note 12 above). To list the article's further failings would require an article in itself. It is tragic that other scholars depend uncritically upon Anderson (cf. *Dialogue*, Winter 1972, vii, 7).

and preservation measures to prevent complete disintegration of the documents, but the County preferred to have them returned to their hands and the writer was so notified by the County Attorney (James A. Haynes, Jr., letter September 16, 1971). In the light of subsequent developments perhaps it would have been wiser simply to have obtained from the county certified copies of all the bills and allowed them to be returned to the damp basement to disintegrate.

Recently, however, persons who have gone to Norwich to examine these bills personally were reportedly informed by someone close to the County Historian's Office that the writer had tried to sell the bills to Yale University and that the University may have doctored them. Such a charge, if ever made, is completely false. The writer has a personal letter from Dr. Archibald Hanna, director of Yale's noted Western Americana Collection, stating to the writer that "in all our conversations relating to the Joseph Smith documents, our only concern was that they should be safely housed so that they might be preserved for future generations" (letter 21 August, 1973). In strong language, Dr. Hanna vigorously denies that the documents were in any way altered by the University.

That no forging, alteration, or doctoring of these documents has ever taken place is easily demonstrable. The two bills in question were discovered late in the day on July 28, 1971. Xerox copies were directly obtained and a set dispatched in the morning mail on July 29th to Mr. Jerald Tanner, who within a few days had them in print in his August publication. (see note 11). The bills were next photostated in Philadelphia by Mr. Poffarl before they were taken to Yale by Mr. Poffarl, who still has in his files the receipted bills for the work. In addition, the several sets of photostats made at the time were mailed to various individuals: Mrs. Mae Smith, Chenango County Historian; Mr. Richard P. Howard, Historian of the Reorganized Church of Jesus Christ of Latter Day Saints; Prof. Marvin S. Hill, Brigham Young University; and a set is presently on file in the County Clerk's Office, Chenango County, Norwich, N.Y., and at Westminster Theological Seminary, Philadelphia. At the latter institution the original Xerox copies made on July 29, 1971 are also on file.

When the bills were returned from Yale by registered mail, an inquiry was received from a Mormon scholar at Purdue, Mr. Danel Bachman, with whom a meeting was arranged before forwarding the bills by registered mail to the County Clerk's office. Mr. Bachman requested that the documents be photographed in color for him, which was done before returning the bills to the County. With such repeated copying at various points, it is easy to demonstrate that

the bills have never been altered in any way either before, during, or after their deposit at Yale.

In addition, Mr. Bachman thoughtfully made an affidavit, the original of which is on file at Westminster Theological Seminary, in which he states: "Although I am not qualified to state authoritatively that the documents shown to me were authentic and genuine, I have no reason to believe that they were forgeries. They had the appearance to me of being genuine particularly because of their age, the style of writing, and the water damage. The paper was crumbling away in several places where the paper had been folded" (sworn affidavit October 19, 1971). These two bills, after being received by the Clerk's Office, were on February 25, 1972, placed in the custody of the County Historian, Mrs. Mae Smith.

Marissa, Illinois

Orange County or District of Columbia
1823

so coming from the court on 10th of October 1823
 Notifying two witnesses
 Subpoenaing witnesses
 Notifying two witnesses
 Bringing him to Court
 5 miles witness
 Serving Warrant on request of David Smith
 Subpoenaing 11 witnesses
 Serving Warrant on request of David Smith
 Subpoenaing 6 witnesses
 Subpoenaing 4 witnesses
 Notifying two witnesses
 Serving Warrant on request of David Smith
 Subpoenaing 6 witnesses
 Serving Warrant
 Notifying Justice
 Serving Warrant on request of David Smith
 Subpoenaing 11 witnesses
 Notifying Justice
 Serving Warrant on request of David Smith
 Subpoenaing 12 witnesses
 Notifying two witnesses
 10 miles witness with attention to take him

Constable Philip DeZeng's 1826 bill

From Occult to Cult With Joseph Smith, Jr.

A NEWLY FOUND DOCUMENT CONFIRMING THE MORMON PROPHET'S EARLY MONEY DIGGING

Joseph Smith, Jr., before he became the founder and prophet of Mormonism, had made part of his living as a “glass looker.” By gazing into a peep-stone or seer stone, placed in a hat to obscure the light, he would attempt to see where buried treasure was hidden or to locate lost objects for people. This money digging activity and the court trials that grew out of that illegal practice have received new clarification through a recently discovered letter from a judge who, in 1830, tried Joseph Smith in Colesville, south central New York. The letter was written in 1842 by Joel King Noble, a justice of the peace in Colesville, Broome County (not far from Binghamton), in answer to an inquiry from Prof. Jonathan B. Turner of Illinois College in Jacksonville, Illinois.¹ Scholars have for a long time had affidavits and testimonies about Joseph Smith’s treasure hunting activities in his home area of Palmyra and Manchester in western New York. They also have had sworn statements and interviews concerning such activity from the Harmony area in north central Pennsylvania, where his wife’s parents lived.² These two areas Mr. Noble mentions as part of

1. The letter, now in the Turner Collection of the Illinois State Historical Library in Springfield, Ill., arrived too late to be included in Prof. Turner’s book, *Mormonism in All Ages*, 1842. (See correspondence from Absalom Peters, Jan. 1 and July 6, 1842, regarding the printing, in another Turner Collection in the Illinois State Historical Survey Library, Urbana, Ill.) Mr. Noble after 1850 moved to Hartland Township, Huron Co., Ohio, where he died Feb. 19, 1874.

2. For central Pennsylvania see the affidavits of his father-in-law’s family in the *Susquehanna Register*, May 1, 1834; the interviews of journalist Frederic Mather in *Lippincott’s Magazine*, Aug. 1880; and Mather’s more detailed account in the *Republican* (on file in the Susquehanna County Historical Society). For the Palmyra area see the affidavits in E. D. Howe, *Mormonism Unveiled*, 1834, and the interviews in Arthur Deming’s *Naked Truths about Mormonism* (original publication in the Yale University Library). The interviews of William H. Kelley (*The Saints’ Herald*, June 1, 1881) were built up from the extremely sketchy notes (on file in the RLDS Library) and

the “triangle” of Joseph Smith’s early operations. Mr. Noble’s letter now provides us with valuable new material on the third and least known part of that triangle, the Bainbridge/Colesville field of operation.

Our knowledge of Joseph Smith’s activities in the Bainbridge area had previously, to a large extent, depended on the printed record of a trial at South Bainbridge in 1826, in which Joseph had admitted to his “glass looking” practices and was accordingly found guilty of breaking the law, though no sentence is recorded. The record of this trial from the docket book of Judge Albert Neely was published in three independent printings between 1873 and 1886, but because the docket pages subsequently were lost, Mormons labeled the whole matter a fabrication. Mormon writers like Francis Kirkham and Dr. Hugh Nibley vigorously denied that their prophet could have participated in such a superstitious practice, or had ever been found guilty in a court of law of what was clearly a confidence game.

However, the discovery in 1971 of the bills of cost handed in to the county by Constable Philip DeZeng and Justice Neely for their services during the arrest and trial of Joseph Smith in 1826 have now established beyond doubt that the young “Glass looker” (as Mr. Neely’s bill calls him) was indeed involved in glass looking for hidden treasure and lost objects, and that he was brought to trial for that crime.³ While the bills thus confirm the authenticity of the printed trial record, they do not, of course, directly state that Joseph had been found “guilty” in that trial, nor do they explain why a sentence was not imposed following the guilty verdict. For these reasons Mormons have recently been inclined to grant that Joseph Smith, Jr., was tried in 1826, but they do not believe he was found guilty, and they therefore tend to regard the printed record as a falsification.⁴ Mr. Noble’s letter, however, now fills in the missing details

their accuracy was subsequently challenged by some of those interviewed (see affidavits in “Miscellaneous Papers,” filed 30 Nov. 1881, in the Canandaigua Court House and printed in Charles Shook, *The True Origin of the Book of Mormon*, pp. 37f.).

3. For a full presentation of this discovery see, “Joseph Smith’s Bainbridge N.Y. Court Trials,” *The Westminster Theological Journal*, Winter, 1974, pp. 123-155 (available in reprint from Modern Microfilm Co., Box 1884, Salt Lake City, UT 84110). After Neely’s bill, the earliest reference to Joseph’s glass looking is by the Rev. John Sherer, a Congregational pastor of the Oneida Association (Chenango Presbytery Minutes, bk. A, 142, 161). On Nov. 18, 1830, from Colesville he wrote the American Home Missionary Society: “This man has been known, in these parts, for some time, as a kind of juggler, who has pretended, through a glass, to see money under ground, Ec, Ec.” (original in Amistad Research Center, Dillard University, New Orleans).

4. This is implied, for example, in the way Donna Hill handles the trial material in her new biography, *Joseph Smith: The First Mormon*, 1977, p. 65. She makes the erroneous assertion that the accounts are “diverse.” The detailed study cited in note 3 makes it abundantly clear that, except for one or two minor ambiguities, they are in exact agreement. Cf. also Francis M. Gibbons’ *Joseph Smith, Martyr; Prophet of God*, 1977. Though pathetically ignorant of the factual data and erroneous in many of his assertions, even this secretary to the first presidency of the Mormon Church now acknowledges an 1826 trial (pp. 45f.).

and confirms the entire incident, so that there is no longer any reason to doubt the authenticity of the printed docket.

Judge Noble says quite unequivocally that “Jo. was condemned” in what he calls Joseph’s “first trial.”⁵ Then he adds a detail that provides the clue to why no sentencing appears in the docket record even though Joseph was found guilty. Mr. Noble succinctly states that the “whisper came to Jo., ‘Off, Off!’” and so Joseph “took Leg Bail,” an early slang expression meaning “to escape from custody.”⁶ What is obviously happening is that the justices are privately suggesting to this first offender to “get out of town and don’t come back,” and in exchange they will not impose sentence. This is why no sentence was recorded in the docket record of Mr. Neely.

In reporting the court’s method of clemency, Judge Noble’s statement agrees precisely with an early account of this 1826 trial published just five years after the trial had taken place. It was written by a young medical doctor who lived in South Bainbridge at the time, Dr. Abram Willard Benton, who like Mr. Noble mentions that Joseph had been involved in glass looking, and that he had been “tried and condemned.”⁷ Dr. Benton adds that because Joseph was a minor at the time, being 20 years old, “and thinking he might reform his conduct, he was designedly allowed to escape.” Therefore, the court, though it found him guilty of being in violation of the law, had intentionally not imposed sentence as a way of showing mercy on this youthful offender. Young Joseph, aware that returning to the Bainbridge area might find him suddenly sentenced to jail, was careful to return, as Noble puts it, “in Dark corners” and “in the Dark.” Even in his return to marry Emma Hale in January of 1827, the ceremony was performed by the one justice, Zechariah Tarble, who had not participated in his 1826 trial. Joseph, therefore, seems to have been very much aware of the guilty verdict he stood under and was careful to stay out of the way of the law.

5. Mr. Noble at the outset of his letter promised to distinguish hearsay from information he personally could vouch for as correct. He therefore indicates the dependable nature of his information about this 1826 trial by adding tersely, “all *things Straight*.”

6. Eric Partridge, *A Dictionary of Slang and Unconventional English* (Macmillan Co., 1967, p. 476). Since the expression could be either to “give or take” leg bail, Noble uses both forms, placing the former in parenthesis and using his familiar wavy line where he knows the reader can fill in the word without his needing to write it out in full.

7. *Evangelical Magazine and Gospel Advocate*, Apr. 9, 1831, p. 120. Dr. Benton, according to the family Bible record, was born July 16, 1805, and was received into the Medical Society Oct. 13, 1830 (James H. Smith, *History of Chenango and Madison Counties*, 1880, p. 100). For a while he lived on the east bank in South Bainbridge just north of the bridge (Chenango Co. Deeds RR 587). About 1838 he moved to Sterling, IL and then to Fulton, where he died Mar. 9, 1867.

The Noble letter tells us even more about the trial, however. Mr. Noble states that the “Civil authority brought up Jo, standing (as the Boys say) under the Vagrant Act.” In the early legal compilation known as *The Revised Laws of 1813*, the laws in force at the time of Joseph Smith’s trial, various types of vagrancy were collected together under the broad heading of “Disorderly Persons.” That law not only called for the arrest and trial of “all persons who, not having wherewith to maintain themselves, live idle without employment,” but also specifically named other areas of idleness, including “all jugglers, and all persons pretending to have skill in physiognomy, palmistry, or like crafty science, or pretending to tell fortunes, or to discover where lost goods may be found” (emphasis mine).⁸ If found guilty, the punishment could be up to two months at hard labor, with an additional extension to as much as six months, and whipping administered when it was deemed necessary.

Joseph Smith put himself in the position of meriting such punishment by the line of defense he took at his 1826 trial. According to the docket record, Joseph’s defense at his trial was that he really could discover where lost goods could be found and was therefore not an imposter trying to sponge off the public as a vagrant might do. Such a defense, however, was a virtual admission that he was in violation of the law against “pretending . . . to discover where lost goods may be found.” The court, therefore, after hearing a few witnesses who corroborated that fact, summarily pronounced Joseph “guilty.” A newly published Mormon document written by Joseph Knight, Sr., an early Mormon convert and friend of Joseph, confirms and supplements Mr. Noble’s statement at this point. Mr. Knight, in commenting on a second legal encounter Joseph Smith had in South Bainbridge (this one in 1830), stated that “Doctor Benton” swore out the 1830 warrant against the young Mormon leader “for as they said pertending [*sic*] to see under ground,” and indicated that this action could be taken because of “a little Clause they found in the york Laws against such things.”⁹ What this shows is that the same law against money digging, under which Joseph Smith was convicted but never sentenced in 1826, was invoked against him again in 1830. Since Joseph originally

8. *Laws of the State of New York, Revised and Passed . . .*, revisers William P. Van Ness and John Woodworth, 2 vols., 1813, vol. I, 114 (usually cited as Revised Laws, or simply R.L.). The act Noble calls the Vagrant Act is officially entitled “An ACT for apprehending and punishing disorderly Persons,” the term used in the trial record itself. However, it is clear from reading the act that its primary concern was with vagrancy, and the index under “Vagrants” (I R.L., 589) states, “See Disorderly persons—gaming—horse racing—poor—and vol. 2, Immorality.” In the *Revised Statutes of 1829* the material from the act is redistributed, some into a section “Of Beggars and Vagrants” and some into the section “Of Disorderly Persons” which includes “all persons pretending to tell fortunes, or where lost or stolen goods may be found” (I R.S., 638).

9. Dean Jessee, “Joseph Knight’s Recollection of Early Mormon History,” *BYU Studies*, VII (Autumn 1976), p. 38.

claimed to have found the gold plates by the same means he used to hunt for treasure,¹⁰ the prosecution probably felt they could make the former money digging charge hold up again and this time with the sentence being imposed.

More significant yet is what the Noble letter tells us about the religious overtones connected with Joseph's early money digging. He summarizes the sworn testimony concerning one attempt to obtain buried treasure in which they tried first one thing and then another until finally, a "black Bitch" was obtained, "the Bitch was offered a sacrifice," the "blood Sprinkled" and "prayer made at the time," but there was "no money obtained" in spite of this occult ritual. This same incident is also mentioned in greater detail by an early Mormon convert, Mrs. Emily Coburn Austin, and from her we learn that it took place some time between the summer of 1825 and Joseph's leaving the area, which followed his 1826 trial.¹¹ Miss Coburn, during that period, would visit the Joseph Knight farm (on the east bank of the Susquehanna, just across from the village of Nineveh in Colesville Township) to see her sister Sarah, who had married Joseph Knight's son, Newel. There, in addition to meeting Joseph Smith occasionally, she and her sister would "walk out to see the places where they had dug for money" on the Knight farm. She mentions that at the time both of them "laughed to think of the absurdity of any people having common intellect to indulge in such a thought or action," and continues:

. . . in the time of their digging for money and not finding it attainable, Joseph Smith told them there was a charm on the pots of money, and if some animal was killed and the blood sprinkled around the place, then they could get it. So they killed a dog and tried this method of obtaining the precious metal. . . . Alas! how vivid was the expectation when the blood of poor Tray was used to take off the charm, and after all to find their mistake . . . and now they were obliged to give up in despair.

Another incident similar to this one was related in the 1826 trial itself. Dr. William D. Purple happened to be in South Bainbridge at the time and attended the trial. Years later he wrote his recollections of it and

10. Dr. Benton, in his article printed nine months after the 1830 trial, mentions that, "During the trial it was shown that the Book of Mormon was brought to light by the same magic power by which he pretended to tell fortunes, discover hidden treasure, &c." (*op. cit.*, p. 120). Martin Harris, one of the three witnesses to the Book of Mormon, in an interview in *Tiffany's Monthly* of 1859, also stated that it was by means of his money digging stone Joseph first discovered the gold plates: "Joseph had before this described the manner of his finding the plates. He found them by looking in the stone found in the well of Mason Chase. The family had likewise told me the same thing" (V, pp. 163, 169). Cf. also Howe, *op. cit.*, pp. 252f.

11. Emily M. Austin, *Mormonism; or, Life Among the Mormons*, 1882, pp. 32f. Her sister Sarah married Newel Knight in June, 1825, and Mrs. Austin places the incident after the time of that marriage and before Joseph's leaving the area and then returning to marry Emma Hale (Jan. 1827). Cf. pp. 30, 33.

mentioned that Joseph on that occasion had been digging for Mr. Stowell, a deacon in the Presbyterian church. According to the testimony of Mr. Thompson given at the trial, Joseph told Mr. Stowell that

very many years before a band of robbers had buried on his [Stowell's] flat a box of treasure, and as it was very valuable they had by a sacrifice placed a charm over it to protect it, so that it could not be obtained except by faith, accompanied by certain talismanic influences. So after arming themselves with fasting and prayer, they sallied forth to the spot designated by Smith. . . . In a few feet from the surface the box of treasure was struck by the shovel, on which they redoubled their energies, but it gradually receded from their grasp. . . . After some five feet in depth had been attained without success . . . the fruitful mind of Smith was called on to devise a way to obtain the prize. Mr. Stowell went to his flock and selected a fine vigorous lamb, and resolved to sacrifice it to the demon spirit who guarded the coveted treasure. Shortly after the venerable Deacon might be seen on his knees at prayer near the pit, while Smith, with a lantern in one hand to dispel the midnight darkness, might be seen making a circuit around the pit, sprinkling the flowing blood from the lamb upon the ground, as a propitiation to the spirit that thwarted them. They then descended the excavation, but the treasure still receded from their grasp, and it never was obtained.¹²

From these and other similar statements it is quite clear that Joseph Smith surrounded his money digging activities with a religious atmosphere that flavored of the occult.¹³

This occult religious setting showed itself in the use of other “talismanic influences,” as Dr. Purple called them, to break the charm or enchantment that held the treasures. One such feature was the use of a circle marked off on the ground, a practice inherited from medieval magic and considered to aid the magician in his dealing with dangerous spirits.¹⁴ Joseph’s use of such magic devices in his early years gave his mother concern in later life that the family not be thought of as having

12. The *Chenango Union* (Norwich, N. Y.), May 2, 1877, p. 3. For treasures that slip away into the ground in the Book of Mormon, see Hela. 13:34-36; Mor. 1:18.

13. William R. Hine, who lived in Colesville at the time of Joseph’s money digging, stated that Joseph “claimed to receive revelations from the Lord through prayer, and would pray with his men, mornings and at other times” (*Naked Truths*, Jan. 1888, p. 2). Cf. similar statements about his receiving revelations where to dig, in the statements of Henry A. Sayer (*id.*, p. 3) and of C. M. Stafford and Joseph Rogers (*id.*, Apr. 1888, p. 1). Joseph’s use of sacrifice in his Palmyra diggings is referred to in William Stafford’s testimony (Howe, *op. cit.*, p. 239); in the *New York Herald*, June 25, 1893, p. 12; and in *Naked Truths*, Jan. 1888, p. 3. The same ritual in the Pennsylvania diggings is recorded in E. Blackman, *History of Susquehanna County, Pa.*, 1873, p. 580, and in Mather’s interviews (*Lippincott’s Magazine*, Aug. 1880, p. 200).

14. Francis King, *Magic, The Western Tradition*, 1975, p. 12. The use of the circle in Joseph’s (and his father’s) money digging can be found in James G. Bennett’s article in *Courier & Enquirer*, Aug. 31, 1831; in Howe, *op. cit.*, pp. 238, 259; and in *Naked Truths*, Jan. 1888, p. 3 (statement of K. E. Bell, whose original affidavit in his own hand is in the Chicago Historical Society’s Deming Collection).

devoted their *entire* time to such occult matters. In the preliminary draft of her history of that early period (but omitted from the printed version) she wrote:

. . . let not the reader suppose that . . . we stopt our labor and went at trying to win the faculty of Abrac, drawing magic circles, or sooth saying, to the neglect of all kinds of business. We never during our lives suffered one important interest to swallow up every other obligation.¹⁵

Thus it is quite clear from all sides that Joseph wove occult religious material into his money digging practices, and this led the communities where he dug for treasure to associate him with divination, necromancy, and wizardry.

Whether this blending of religion and magic was inherited from his father's connection with the "Rodmen" movement of Middletown, Vermont,¹⁶ or was picked up from a magician named Walters with whom Joseph seems to have been associated for a while,¹⁷ or was stirred by the influence of the revival in Palmyra over the winter of 1824-1825,¹⁸ it is impossible to say. It is possible that this whole occult procedure was a mere theatrical trimming to make his confidence game seem more convincing. Mr. Noble reports that he heard one witness testify that he had asked Joseph on one occasion whether he could actually "see or tell" more than anyone else, and Joseph had admitted he could not but added, "Anything for a living. I now and then get a Shilling."¹⁹ However, it seems likely that he came at least half-way to believe in that realm of the occult, for he

15. In the Historical Department, LDS Church, Salt Lake City, p. 77 of Xerox copy, punctuation mine. Abrac derives from Abracadabra and Abraxas, both of which were used by the Gnostics on magic amulets. To make the charm work required a knowledge of how the amulet was to be used. The Masonic Lodge of the 18th century claimed they knew how to conceal "the way of obtaining the faculty of *Abrac*" (James Hardie, *The New Free-Mason's Monitor*, N. Y., 1818, p. 203). Since Joseph's brother Hyrum claimed membership in the Palmyra Masonic Lodge, the Smiths may have been encouraged in some of their occult lore from that source.

16. On the Rodmen, see provisionally Judge Barnes Frisbie, *History of Middletown, Vermont* (reprinted for the bicentennial) and the Tanners, *Joseph Smith and Money Digging*, pp. 16-18. Some of the Rodmen were counterfeiters and Noble's reference to Joseph's father being involved with counterfeiting probably has that in view.

17. On "Walters the Magician" see the *Palmyra Reflector*, July 7, 1830, Feb. 28, 1831; reprinted in Fawn Brodie, *No Man Knows My History*, 1971, pp. 431f.

18. On the revival see the discussion in *Dialogue: A Journal of Mormon Thought*, Spring 1969, pp. 59ff.

19. The same testimony had been given the day before at the South Bainbridge 1830 trial by Addison Austin, according to Dr. Benton's report. Mr. Austin testified "that at the very same time that Stowell was digging for money he, Austin, was in company with said Smith alone, and asked him to tell him honestly whether he could see this money or not. Smith hesitated some time, but finally replied, 'to be candid, between you and me, I cannot, any more than you or any body else; but any way to get a living.'"

carried with him as a prized possession most of his life a talisman bearing the signs of Jupiter, and had it on him at the time of his death.²⁰ Whatever his personal beliefs, his use of the religious elements of prayer and faith, as well as revelations telling where treasure could be found, shows a certain religious bent to his thinking and an inclination to use religious exercises as a means of manipulating people. Therefore, once he had determined to give up money digging after his close brush with the law in 1826,²¹ this occult religious interest made it easy for him to think in terms of producing a religious book from the gold plates he claimed to have discovered through the same stone he had used for his treasure hunting.

It was this shift from the occult in money digging to the cult of Mormonism that more than ever aroused the Bainbridge/Colesville community, when Joseph a few years later returned and appeared “bold as a Lion again.” Joseph had by then exchanged his gold hunting practice for what he termed in 1829 the “Gold Book business.”²² He was no longer just a juvenile “con-man” preying upon a few persons “given to the marvelous,” but now the leader of a religious sect that actively proselytized members from the established churches of the area. The religious community, especially the Presbyterians, who were threatened with the loss of two of their young members to Smith’s new religion, were aroused to action.²³

20. The talisman was brought to the attention of scholars by Dr. Reed C. Durham, Jr. (a director of the Mormon Institute of Religion in Salt Lake City) in his presidential address to the Mormon History Association in 1974. It is designed after the pattern and magic square in Francis Barrett’s *The Magus*, 1801 (plates facing pp. 174 and 143) and was supposed to bring the wearer “riches and favour, love, peace, and concord, and to appease enemies, and to confirm honors, dignities, and counsels” (p. 143). Mr. Wilford Wood, who purchased it from the step-son of Joseph’s widow, mistakenly thought it was Joseph’s “Masonic Jewel.” A poor photo reproduction along with Dr. Durham’s paper was published in *Mormon Miscellaneous*, Oct. 1975, pp. 11ff.

21. After his marriage to Emma Hale in January 1827, Joseph told his father-in-law that he “had given up what he called ‘glass-looking’” (affidavit of Isaac Hale, the *Susquehanna Register*, May 1, [1834]). Joseph also told Martin Harris in the fall of 1827 that an “angel told him he must quit the company of the money-diggers. . . . He must have no more to do with them” (*Tiffany’s Monthly*, V, 169). Harris mentioned that the money digging company of which Joseph was a member had agreed to share any profits. When Smith announced the gold plate find, the others wanted their share and tried to get the plates from him (pp. 164, 167). Joseph, in later retelling this, transformed it into persecution by the community and attempts by them to seize the plates.

22. Letter of Joseph Smith to Oliver Cowdery, Harmony, Pa., Oct. 22, 1829, in the Kirtland Letter Book, p. 9, Historical Department, LDS Church, Salt Lake City. Cf. the similar expression in Howe, *op. cit.*, p. 253.

23. The Presbyterians had already lost Josiah Stowell to Smith’s sect at South Bainbridge, and they would soon lose Emily Coburn and her sister Sarah Knight (probably the “2 Presbyterians” Noble mentions). Newel Knight had joined the Mormon Church in May 1830, and while Emily was visiting with them the rumor spread that she, still under 18, was about to join also. This brought quick action by members of her family and by her pastor, Rev. John Sherer. Emily returned to her family on Monday, June 28th,

Seizing upon that “little Clause in the York Laws,” Dr. Benton, at the time a Presbyterian,²⁴ swore out the warrant. But the crime had been a misdemeanor and the time limit for prosecution had run out.²⁵ Joseph was able, therefore, to escape sentencing in this second Bainbridge trial because, Noble tells us, Joseph pleaded at the bar the statute of limitations.

The opposition did not give up that easily, however, and no sooner had Joseph stepped out of the justice’s court on to “terifirma” in South Bainbridge, Chenango County, than he was arrested again and taken a few miles across the county line into Colesville, Broome County, where he was arraigned before Justice Noble. The prosecution was conducted by a “Gentleman well Skilled in the Science of Law.” This was undoubtedly William Seymour, another Presbyterian, the “Lawyer Seymour” whom Joseph Smith himself tells us brought up at this Colesville trial the matter of his having been a money digger.²⁶

Joseph was now on firmer footing than he had been in 1826, for it is far more difficult to prove religious fraud than mere secular deception. The trial lasted 23 hours and called some 43 witnesses,²⁷ and the evidence was sufficient to convince Judge Noble that Joseph was a “Vagrant idler,” a “Liar,” a “Deceiver,” and “anything but a good man,” but there was

her sister joined the Mormons on the 29th (cf. Larry Porter, *BYU Studies*, Spring 1970, p. 373) and the South Bainbridge community brought Joseph to trial on July 1st (according to the bill of cost). The purpose of the trials was “to check the progress” of the new cult, as Donna Hill has noted (*op. cit.*, p. 113). The Presbyterian fears were not unfounded, for Emily joined the Mormons a few months later (cf. her book, pp. 36ff., and the Rev. John Sherer’s letter) and remained with the LDS until the Nauvoo period.

24. Oddly enough, Dr. Benton, while opposing Joseph’s occult practice at Bainbridge, went into spiritualism after moving to Illinois, offering both conventional and clairvoyant diagnosis in his medical practice. It seems likely that he was the “Cats-paw” as Joseph Knight, Sr., had asserted (*op. cit.*, p. 38; cf. also Mrs. Austin, *op. cit.*, p. 44).

25. The law limited the time for prosecution of a misdemeanor to three years (I R.L., 187, sec. VII), while four had elapsed. The prosecution may have felt it still had a case since part of that time Joseph had been living in Harmony, Pa., and the law did not reckon the time spent outside the state as a part of the three year limitation.

26. Joseph Smith, *History of the Church*, I, 93. William Seymour had been one of the pioneer settlers in Binghamton and after studying law moved to Windsor Township, next to Colesville. There he became an elder and clerk of Session in the Presbyterian church as well as a justice of the peace and town clerk. Returning to Binghamton, he became a county judge, a member of the U.S. Congress, and finally Judge of the Court of Common Pleas. He died Dec. 28, 1848, highly commended by the Bar Association (*Binghamton Democrat*, Jan. 2, 1849, p. 3).

27. John Reed, who defended Smith at South Bainbridge and Colesville, spoke of the prosecution having introduced some “twenty or thirty witness before dark” (Joseph Smith, *op. cit.*, I, 96). One who testified on Joseph’s behalf was Newel Knight (*id.*, p. 92), and since he claimed to have had the devil cast out of him by Joseph Smith and to have seen Christ in Glory and received an assurance of his eternal salvation, it seems clear that Mr. Noble is referring to Newel on the third page of his letter (cf. *Scraps of Biography*, 51ff.).

nothing that he could be legally convicted of in his new religious role of Prophet, Seer, and Revelator. Noble, in respect for the letter of the law therefore, had to dismiss the charges.²⁸

Thus the 1830 trials marked Joseph's successful transition from a practitioner of the occult, searching for money, to the prophet of the new cult of Mormonism. When Joseph later recounts this early period of his life, he minimizes his money digging as a minor affair of manual labor for an old gentleman named Josiah Stowell, whom he finally "prevailed" with to abandon such useless activity, and the many testimonies to his money digging come to be regarded as slander manufactured to persecute the young prophet of the Lord.²⁹ That period when he was a sorcerer and glass looker using occult religious practices in a superstitious confidence enterprise is transformed by Joseph into the period of preparation for him to become the instrument of the Lord for bringing forth the fullness of the gospel by the publication of the Book of Mormon.³⁰ The new religion he offered was unfortunately a counterfeit copy of the Christianity of his

28. Noble mentions another trial in which Joseph was condemned. Though poorly written, the name appears to read "Quinntown," possibly the section of Fenton Township, Broome County, now known as Quinneville (just west of Colesville, where the Quinn family once lived). The surrounding counties also have traditions of Joseph Smith's legal difficulties in their areas. Bishop Daniel Tuttle, who became an Episcopal missionary to the Mormons and who was the publisher of one of the printed accounts of Neely's docket record, early in his career had a church northeast of Bainbridge at Morris, N. Y., and revisited the area frequently to raise funds for the work among the Mormons. His *Reminiscences of a Missionary Bishop* (p. 327) comments: "Smith was up more than once, when a youth, before justices of the peace in Central New York for getting money under false pretenses, by looking with his peep stone." It is highly possible that further research may turn up other enlightening legal entanglements in the early career of Mormonism's founder.

29. Joseph Smith, *op. cit.*, p. 17. Joseph's paper, *Times and Seasons*, went so far as to speak of "the ridiculous stories that are propagated concerning Joseph Smith, about money digging" (IV, p. 32).

30. Cf. Joseph Smith, *op. cit.*, I, p. 16. Donna Hill (*op. cit.*) after equivocating somewhat about Joseph Smith's trial for money digging (p. 65), seems to concede that he was involved in the practice with the use of his peep stone. She further admits that "to some extent he had accepted the myths which often accompanied belief in buried treasure at that time" (p. 66), but she fails to see the occult connections of those beliefs. She seeks to remove the onus of the money digging practice by emphasizing that it was a regretful misuse of Joseph's spiritual gift for divining through his stone (p. 66); further that the money digging stories "proliferated" (p. 67), implying that the incidents were made more frequent than they really were; and finally that other "respected citizens" were heavily involved in similar treasure hunting (pp. 67f.), suggesting that Joseph was not to be blamed too harshly for his involvement. The authoress overlooks the fact that the law against such crafty practices had been on the books since 1788 and it was accordingly in that day considered a crime; that the letters of both Noble and Sherer and the story of Emily Coburn show that the practice was popular only with a few "given to the marvelous," but not with most thinking persons; and finally that once the Mormon religion had been launched even the Prophet himself was embarrassed by it and intentionally lied, shifting the blame to a single incident involving Josiah Stowell.

day, and still leaned heavily in the direction of acquiring wealth through surrendering personal property to Joseph's control, real estate transactions that added to the wealth of the church, and even a banking enterprise that siphoned off the reserves for the church's use. Sadly, his new role of prophet and seer ultimately led him further and further from the Bible's Good News about a Savior who was rich but impoverished Himself to the extreme in dying forsaken on a cross for our sins, so that we might become truly rich beyond all dreams of earthly avarice through His free gift of eternal life. — W.W.

Chenango County - Bainbridge March 8 - 1842

Sir I write to you under peculiar circumstances

having been confined to my room for 5 weeks and now

sit up but a few hours at a time Your Letter came to me

In the winter by chance I understod no answer had been

Given I volunteer to answer being at present not a

Civil Officer what I state as fact I am responsible for

heresay mark so - Jo. Smith Senior Lived In Vermont

connected with a band of counterfeiters - ran - came to

Mohawk river - eloped (Seducad a married women) to Canady affidavit

came to Palmyra in this State I firmly believe proof my

may be had to identify Like father Like son Jo. Smith (Hormen) came here when about

17 - 18 Y. of age in the capacity of Glass Looker or fortuna-

teler at that time his physlognomy Indicated almost

any thing rather than native Good common Sound Sense

Sir I do think I am not mistaken in the above ----

You may then enquire ask me Behold what Jo. has Don

I say Jo. Is the cats paw the Lion is behind the curtin You

then enquire who is the Lion I Say Mr. Rigdon was not the

Lion until after the Book of Hormon was Printed

he may be the Lion now You Yet enquire who the Lion (first)

was I say 2 Individuals names of 2 I keep for present - I am well

aware that it went the round in many P. papers that

the B. of M. was wri gn first for amusement and received a Dress-

ing by Some individual Said by Some to be Mr. Rigdon

Sir this is incorrect I can prove absolute Mr. Rigdon

Did not 2 Individuals Did (not bostingly) -Plaa-te--

(I have Retired a few hours Commence again) Jo. engaged the

attention of a few individuals Given to the marvelous Dugs for

money Salt Iron Oar Golden Oar Silver Oar and almost any thing

every thing until Civil authority brought up Jo. standing (as

the Boys say) under the Vagrant act Jo. was condemned

whisper came to Jo. off off - took Leg Ball (or Gave Leg_Ball)

all things Straight Jo. was not seen in our town for

-of- 2 Years or more (except in Dark corners) his haunt was

Palmyra and Harmony (Penn.) Bainbridge (in the Dark) making

a triangle - here for 2 Y. and more Jo! mind Kept Same

tract (only more hellish) Stimilated by 2 Individuals (above)

was perhaps by supposing him of to be considered about
Author of a Bible in

After 2 years from the time of Sir Justice trial he appeared
in our place but it was a lion again he was wanted of
- nation had to plead in his plea of simulation
So was no sooner it on temporary than existed again
brought before me in an adjoining County only 6
miles distant trial protracted 23 hours the former was
convicted a gentleman called Skoda in - Sir John's proof
manipulated by Sir John & others. Proved to be a frequent
idler (Lay not drunk and) but more and the drunk Sir
Deceives so a man in to good Society he was asked by writing
if he could see what more than other I asked he could not
and then every thing for living I received and then got a
Shilling the Court then you see made every thing
but a good man any way for to Day

An associate and others were digging for
a chest of money in night would not obtain it
they discovered one thing and another together with

Black Bitch the Bitch was spared a poor man

and sprinkled prayer made at the time (convenient)

The cohort I sworn to on trial - I'm a small volume
at least might might be filled similar to the above

which intended to give to you the character
of the mormons who went from here - but you see was

inconvenient was given holding fast. Heated possibly
Lend I would have been in jail because that some had
been duped & Perjured Person of the Court of 18 think

with a expectation every eye at it some abandoned down hard
our place directly allowed other flowers in place some man
of Property say of 5 or 6000 given to the mormons followed
to Ohio soon returned and now here or not far from this

place - for some of the mormons were good neighbors
So did not have connection with individuals in Ohio Co. to my
knowledge I'm so fatigued I close I write to you soon I think
you will without doubt show this to confidential friends if you want
you wish to make use of Do so please manifest as much patience
as I have in - Respeccing Yours & Friends
Joel K. Noble

The 8th of September 1830

Joel K. Noble letter, page 2 reference to the black Bitch sacrifice

and perhaps by supposing himself to be considered-ant--
the
Author of a Bible --- ---- -----

After 2 Years from the time of Jo's first trial he appeared
in our place bold as a Lion again Jo. was arrested exami-
-nation had Jo. plead in bar Statute of Limitations
Jo was no Sooner Set on trial than arrested again
brought before me in an adjoining County only 6
miles Distant trial protracted 23 hours the prosecu[on] was

Conduct[ed] by a Gent[leman] well Skilled in [the] Science of Law proof
manifested by I think 43 Witnesses Proof Jo. a Vagrant
Idler Lazy (not Drunkard) but now and then Drunk Liar
Deceitful Jo. a nuisance to Good Society Jo. was asked by witness
if he could see or tel more than others Jo. said he could not
and says any thing for a living I now and then Get a
Shilling the [] You See made Jo. any thing
but a Good man - Yours for to Day -----

An-ecedote- anecdote - Jo. and others were Diging for
a Chest of money in night could not obtain- It

[] they Procured one thing and an other together with
[a] black Bitch the Bitch was offered a ^{sacrifice} -ser-----wh--

[] [blo]od Sprinkled prayer made at the time (no money obtained)
the above Sworn to on trial - Sir a Small Volume

at least might might be filed Similar to the above
Sir I had Intended to Give you the -character- character

of the mormons who want from here - here you see -was-
mormanism was gendereo pilgrims first started for holy

Land I would ^{say} Some were Infidel Universalists Some had
been Baptists 2 Presbyterians Several Methodists all I think

with 2 exceptions were rejected Some abandoned Drunkards
our place Sir well clensed = Mr. Stowes a plane hones [] man

of Property say \$5 or 6000 Given to the marvelous followed
Jo. to Ohio - Soon returned and now here or not far from this

place - Sir Some of the mormans were good neighbors
Jo. Did not have connection with Individuals in Otsego Co. to my

Knowledge Sir I am fatigued I close I write to you in confidence
You will without Doubt Show this to confidential friends If a fact

you wish to make use of Do so please manifest as much patience
In --- as I have in --- Respec[if]ully [] Yours ----- Joel K. Noble

[] -Sir Jo condemp[ne]d in a Just[ice] trials Bar 5. of [Quintown] at Jo cost one Reprimand

P.S. Sir I Give you no advice ----- But were I to write on Mormons
I would begin at Least where Jo. began to Dig for money I would follow
J. Step by Step with the eye of ^{an} eagle by affidavit and certificate I would
Identify facts but perhaps Your Book may be in press - ed new Edit^{on}
may be issued then it might be of use ^{You} enquire who could
collect facts You Sir might if here Individuals here could ^{You} enquire
could You I say I could and I think have it near right a common
Blessing attending (circumstances) I have 8 children 7 of which Look to
me for Support this Depends principally on my Duty Exerting (excuse)
Sir please on the Receipt^{ed} of this Send me Your adress - soon Please Send if
convenient now and then a Mormon Paper (old Same thing) or paper
from Your place - Direct J.K. Noble Broome Co. Colesville Minevev
P.O. I Live one Mile from O. 5 from Bainbridge O. J.K.N.
Agein P.S. anecdote (hellish) a Mormon Swore^A
Jo. Smith cast a Devil out of him (Mormon and said
how Devil Look,d Said Devil was a body of Light and
Gave a Relation of the whole Prossess -- now the man
was a P-----d man (or some may ^{say} Deceived) Jo. present
and Silent - (Silence Gives Consent) - follow the argum^{en}
Sir I think I have written penty - You may think So (Patience)
Sir the same Mormon (above) said an angel of Light or
some holy being Direct from heaven told him (Mormon)
\$ a certain fact - the whole Prossess above has been Proofed
to be a falsh^{ed} affidavit is now in my Possession
Sir I think I now will be Silent - Sir I have a Great
anxiety fore the success of Your undertaking Sir be Determin^{ed}
onward march &c ----- ----- ----- ----- J.K.N. ----
----- ----- ----- ----- -----
P.S. Sir if you want any information of me Please let me know be fillia
- r - now I Say -- hold on J.K.N. ----- ----- J.K.N. ----

Dashes (---) under bracketed words indicate wavy lines in the text,
where the bracketed words have been added to complete the word or the
sense of the sentence.