

Chapter 13

The William Law Conspiracy Moved Aggressively against Joseph

The conspiracies against Joseph, and his resistance against them, escalated during the month of April 1844. Events that transpired because of the two polygamy conspiracies against Joseph were numerous, but Joseph remained strong and consistent with his testimony. Joseph was well aware of the two conspiracies. On the one hand, Brigham Young and the majority of the twelve apostles pretended to support Joseph but worked *secretly* to subvert him by weaving a web of polygamy rumors around him. In contrast, there existed a well-advertised conspiracy in which the Laws, Fosters, and Higbees *publicly* charged Joseph with polygamy in the press. Joseph responded vigorously. He set out to meet the threat of the Law conspirators in civil court because they came out publicly against him. Thus, their accusations were verifiable and could better be disproved in court. In addition, the conspirators, led by President William Law, provided Thomas Sharp, editor of the *Warsaw Signal*, with a steady supply of derogatory gossip against Joseph. This was designed to inflame the public against Joseph.

In April Joseph dealt with the Law conspiracy both in and out of the Church. As discussed in the previous chapter, on April 18, 1844, Joseph's counselor, President William Law; his wife, Jane Law; Wilson Law; Dr. Robert Foster of Nauvoo; and Howard Smith of Scott County, Illinois, were cut off from the Church for unchristian conduct (see *Times and Seasons* 5 [April 15, 1844]: 511). Also, Joseph later testified that Law and a band of a dozen Missourians went to Joseph's home late one night to call him out but were stopped by the police. The next day (realizing the seriousness of the act) Law attempted to distance himself from the "conspiracy" of that band (LDS *History of the Church* 6:438–439).

While this was transpiring, Joseph was fighting polygamy on another front by bringing a charge of teaching spiritual wifery against Elder Harrison Sagers (see chapter 2). It is recorded under the date of April 13, 1844:

A charge was preferred against Harrison Sagers for teaching spiritual wife doctrine and neglecting his family, which was handed over to the High Council to act upon.
(*LDS History of the Church* 6:333)

There certainly was a growing number of men, like Sagers, who were embracing that false doctrine, which was secretly being promoted by the conspiracy of the polygamous apostles. Joseph continued to attempt to prosecute those supporting polygamy, even while under attack from bigger enemies.

The civil court cases covered in previous chapters not only educated the public in Joseph's day to the treachery he faced, but those same court records are of extraordinary value to today's scholars in search of the truth. In addition to the previously reviewed court cases, there were many more. From April until his death in June, Joseph's enemies vexed him with additional legal harassments, and, due to their disruptive and illegal behavior in the city, many of them were party to additional civil and criminal proceedings involving Joseph. In the following pages some of those additional cases are reviewed. The reader will note how in each additional court case, history reveals Joseph to have been heroic and moral, while those who accused him of polygamy are revealed to have been vicious, conniving, and immoral.

Court Case Where Joseph Smith Defended a Black Man Attacked by Lynch Mob Possibly a Factor in Smith's Murder

Apostle John Taylor, editor of the *Nauvoo Neighbor*, published an account of a robbery, a near lynching, and attempts by Mayor Joseph Smith and others to bring justice. Conspiracies against Joseph had been in operation for some time. However, the depth of the hatred against Joseph became more apparent during the hearings on this case. Other lawsuits against him followed in rapid

succession from the date of the robbery and continued until the day Joseph was murdered. The names of the Laws, Fosters, and Higbees will continue to appear in future chapters as those court cases are reviewed.

Here is an outline of the robbery and near-lynching court case that illustrates Joseph's struggle to uphold the law and preserve his own safety. In it we shall learn:

- A black man, named Chism, was viciously beaten by vigilantes.
- City Marshal John P. Greene arrested the vigilantes (including a Mr. Easton).
- Justice Robert D. Foster (one of President William Law's coconspirators against Joseph) issued a warrant for vigilante Easton to appear before Foster's court.
- By manipulations of the law, Judge Foster acquitted Mr. Easton, and he was released.
- Joseph Smith protested Judge Foster's release of Easton (who had, according to the record, unlawfully attacked Mr. Chism). He stated that Foster's release of Easton was part of a plot to thwart justice.
- Judge Foster issued an explanation for his unpredictable release of the vigilante. He stated that he (Judge Foster) was ignorant of certain facts of the case, and this caused him to rule as he did.
- Judge Foster called upon a juror to testify to the truth of Judge Foster's claim of his own ignorance. To his astonishment, the juror did not substantiate Judge Foster's claim, but stated Foster's court had conducted a sham trial and was a mockery of justice. Separately, Foster was fined for gambling.
- Attorney Chauncey L. Higbee (one of William Law's coconspirators against Joseph) was fined for insulting City Marshal Greene, who had arrested the vigilantes.
- The Higbees and Fosters would later play key roles in

the lawlessness that would lead to Joseph's death. (See Apostle John Taylor's description of their lawlessness at the end of this section.)

Below is the published account of the case as outlined above.

ROBBERY AND LYNCHING.

For several days past quite an excitement has prevailed in our city, occasioned by a robbery, and the application of the Lynch law to the person that is supposed to have perpetrated the act,—the particulars are as follows:

On Friday night, last, the store of Messrs Roloson and Finch was forcibly entered and robbed of from fourteen to fifteen hundred dollars in money, and other property to the amount of two hundred dollars, or upwards. As soon as the affair was discovered, suspicion rested upon a colored person by the name of Chisem [Chism], who was taken by a lawless banditti, under the pretence of a legal process, and hurried out some distance into the woods, where he was tied, stripped, and most inhumanly beaten or lacerated, till the fear of extinguishing life itself admonished the perpetrators of this outrage to desist. We are informed by those who have seen him that the wounds he exhibits are sufficient to shock humanity, and create a feeling of indignity against such a transaction, in every law-abiding person.

A prosecution was immediately commenced against a person by the name of Townsend, before squire Johnson, on the charge of an Assault and Battery, and a verdict rendered of guilty; but for want of evidence to prove the full particulars of the case, he was fined but five dollars and the cost. Mr. J. Easten [*sic*] has since been tried on the charge of being accessory to the above crime; but was acquitted, there being no tangible evidence adduced against him. (*Nauvoo Neighbor*, April 3, 1844; *LDS History of the Church* 6:281, 284)

Following this statement, Editor Taylor published an opinion on “the manner in which this trial was conducted.” Note that in the statement below, mention is made of Justice Robert D. Foster

and Attorney Chauncey L. Higbee, who were conspirators with President William Law. Taylor published:

The Marshall of the city [John P. Greene] upon information given, arrested Mr. Easton for the purpose of bringing him before Daniel H. Wells, Esq, and had his witness prepared to give evidence before that magistrate. At this stage of affairs, a plot was entered into by some of his friends and associates, for the purpose of taking him out of the hands of the Marshall and bringing him before another Justice of the peace. Accordingly, a Mr. Finch, upon affidavit, obtained a warrant from R. D. Foster to bring him forthwith before him. A jury was accordingly empannelled, witnesses called and an investigation had; but as no testimony was adduced to condemn the prisoner, the main witness not being present, he was acquitted, for want of evidence. However, the matter was again called up by squire Wells, who decided that he had no jurisdiction over the case, from the fact, that the prisoner had previously been tried and acquitted on the same charge. (*Nauvoo Neighbor*, April 3, 1844)

Next, Editor Taylor mentioned a statement made by Joseph Smith (who was seeking to prosecute those involved in illegally beating Mr. Chism). He also described other important details of the Chism case. Taylor said:

After the court dismissed the case, Gen. [Joseph] Smith fearlessly stated that he believed that it was a plot on the part of those who were instrumental in getting up the previous trial, to thwart the ends of justice, and screen the prisoner [Mr. Easton] from the condemnation he justly deserves. (ibid.)

Taylor reported that when Joseph had finished speaking, Justice of the Peace Robert D. Foster responded:

Mr. Foster then stated by way of an apology, that at the time he issued the warrant, he did not know that the prisoner was under an arrest, or that there was any process against

him. We hope for the honor of such a man as Mr. Foster, that his statement is true. Mr. Foster, however, called upon one of his jurors, Mr. Carn to corroborate what he had said; but to our astonishment, he replied that when Mr. Foster summoned him to appear and act as juryman, that he was not informed what case he was to act upon, nor did he learn till he entered the office, where he acted according to the evidence given, but believed then as well as now that it was in part a sham trial, a mere mockery of justice. Whether or not, there was any honor or justice in the above transaction we do not pretend to determine, but state the facts as they are, and let the public judge for themselves. (ibid.)

Mr. Chism, the man who had been severely beaten by the vigilantes, declared:

that Messrs Easton, Townsend, and W. H. J. Marr were the persons engaged in this diabolical affair: Mr. Gibbs, one of the witnesses against Townsend, believed the other persons were engaged in it . . . and Mr. Gibbs could not positively swear to it. (ibid.)

The citizens of Nauvoo were greatly disturbed by the unlawful beating of Chism. Editor John Taylor published:

we don't remember of ever having seen more indignation manifest than was manifested on this occasion, and the public mind is not satisfied at the turn affairs have taken. Lynch law will not do in Nauvoo, and those who engaged in it must expect to be visited by the wrath of an indignant people; not according to the rules of Judge Lynch; but according to law and equity. (ibid.)

Taylor also reported:

On Monday last Chancy [Chauncey] L. Higbee, a lawyer, was brought before Daniel H. Wells, Esq., on the charge of using abusive language to, and insulting the City

Marshall [John P. Greene], while in the discharge of his official duty—he was fined ten dollars.

On the same day R. D. Foster Esq. was taken before Isaac Higbee, J. P; and fined ten dollars, for a breach of the ordinance pertaining to gambling, &c.

We are sorry to find that our lawyers and magistrates should be taking the lead among gamblers and disorderly persons and be numbered among law-breakers, rather than supporting virtue, law, and the dignity of the city. (ibid.)

Joseph's protest of the failed attempt by Judge Foster (a participant in William Law's conspiracy) to bring Chism's attackers to justice exposed Foster's dereliction of duty and disregard for the law. Likewise, Joseph's protest of that miscarriage of justice led to the censoring and fining of Attorney Chauncey L. Higbee (also a coconspirator with Law). The humiliation that Foster and Higbee surely felt when their dishonesty and abuses were revealed most certainly increased their hatred of Joseph and strengthened their resolve to do him harm.

The disregard for the law by this group of men and their defiance toward civil officers escalated in the days ahead. Their defiance continued until Joseph and Hyrum were both dead.

Joseph Saved City Marshal from Attacker Who Later Played Key Role in Joseph's Assassination

Here is a list of the events:

- Augustine Spencer was a nonmember who hated Joseph and was involved with one of the polygamy conspiracies against him. He severely beat his own brother Alderman Orson Spencer, who was a Church member. He did so because Alderman Spencer asked Augustine to stop verbally abusing Joseph Smith and the Church (see Lucy Smith, *Biographical Sketches of Joseph Smith the Prophet and His Progenitors for Many Generations*, 350–351).
- Mayor Joseph Smith discovered Augustine Spencer (the domestic disturbance attacker) at the office of Spencer's lawyer and sent for Marshal John P. Greene.

- Marshal Greene arrived, arrested Spencer, and ordered him to go peaceably to the mayor's office for arraignment. Spencer refused.
- Marshal Greene attempted to deputize R. D. Foster, C. L. Higbee, and C. A. Foster (coconspirators against Joseph) to assist Marshal Greene in bringing Augustine to justice.
- The Fosters and Higbee refused to be deputized, swore and threatened the Marshal, and shouted they would rather see Mayor Joseph Smith and the city damned than to help arrest Augustine.
- Mayor Joseph Smith ordered Marshal Greene to arrest the Fosters and Higbee for refusing to assist in bringing Augustine to justice, while uttering threats of violence.
- The Fosters and Higbee resisted arrest and threatened to shoot Marshal Greene. Marshal Greene called for help. No one came to help him fight the three armed men except Joseph Smith, who simultaneously tackled both Fosters.
- C. A. Foster drew a pistol on Joseph, but Joseph managed to disarm him. As the three fugitives continued to fight the Marshal and Joseph, they repeatedly threatened to kill Joseph.
- Marshal Greene and Joseph prevailed and took the Fosters, Higbee, and Augustine Spencer to the mayor's office, where they were arraigned and fined.

Below are the published accounts of these events. As background, Augustine Spencer hated Joseph Smith. While on a mission to Massachusetts, Parley P. Pratt wrote a letter on May 3, 1844, to Joseph and Orson Spencer, warning them of Augustine:

Mr. Augustine Spencer, brother to Elder Orson Spencer, has written a letter from Nauvoo, which is now going the rounds in this neighborhood, and is fraught with the most infamous slander and lies concerning Joseph Smith and others, and which is calculated to embitter the minds of the people who read or hear it. It affirms that Joseph

Smith . . . keeps six or seven young females as wives, &c., and many other such like insinuations. (*LDS History of the Church* 6:354, 355)

This same Spencer would soon spark a criminal case where Joseph would almost be killed. In addition, he would be instrumental in filing false accusations of treason that would, in fact, result in Joseph Smith's death. The article below, reprinted from the *Neighbor*, provides more insight into the first case involving Spencer and the rebellious violence of those who were aligned with William Law against Joseph. The article reported:

Outrages.—It becomes our duty to chronicle some of the proceedings of a band of men who infest our city, and occasionally disturb the peace thereof when opportunity offers itself, but while our magistrates continue to enforce the law they must eventually succeed in establishing law and order.

On Friday morning last the 26th ult. information was given to Mr. Green that Augustine Spencer had committed an assault on the person of Alderman [Orson] Spencer who immediately took him into custody, and on his refusing to go to the Mayor's office [Joseph's office] Mr. Green [Marshal John P. Greene] called upon R. D. [Robert] Foster, C. L. [Chauncey] Higbee, and C. A. [Charles] Foster to assist him, but they swore they would not and said they would see the mayor and the city d____d, and then they would not. Spencer was, however conveyed to the mayor's office and fined \$100.00. The mayor then ordered the three above named to be arrested for refusing to assist the officer when called upon. They all resisted and C. A. Foster immediately drew a double barreled pistol and presented it to the Mayor's [Joseph's] breast, who had come to the assistance of the officers, but it was instantly wrenched from his grasp. Higbee joined with Foster in declaring that they would thank God for the opportunity of shooting the mayor [Joseph Smith]. They were fined \$100.00 each. They all appealed to the municipal court.

These individuals have lately become notorious. R. D. Foster is the magistrate who was fined a few weeks ago for

gambling; Higbee a respectable limb of the law who was fined for insulting the city officers; and C. A. Foster is a candidate for fame, lately fined for disturbing a religious congregation. (ibid., May 1, 1844)

Augustine Spencer, who is mentioned above as having attacked his brother Orson, was deeply involved in the conspiracy against Joseph. Mr. H. T. Reid, an attorney for Joseph, issued this statement after Joseph's death:

On Tuesday morning soon after the surrender of the prisoners on the charge of riot, Gen. Joseph Smith and his brother Hyrum were both arrested on a charge of treason against the State of Illinois. The affidavits upon which the writs issued were made by Henry O. Norton and Augustine Spencer. (*Times and Seasons* 5:561–562; see also *RLDS History of the Church* 2:746; and *LDS History of the Church* 6:569–570)

Thus, Augustine Spencer (whose refusal to be lawfully arrested sparked the brawl where Joseph intervened to save the Marshal) later got his revenge by signing an affidavit of treason against Joseph. Although the charge that Joseph was a traitor was without merit, Spencer's false charge necessitated Joseph's arrest and detention at Carthage Jail while the case was considered. This allowed the gathering mob to grow large enough to scatter the jail guards two days later and Joseph and Hyrum Smith to be murdered.

The Marshal's Statement Regarding Joseph Nearly Getting Shot While Aiding Him

The following account by Marshal John P. Greene appeared in the *Neighbor*, and it corroborates the other accounts on this subject. The article states:

But, Mr. Taylor, I wish to give the following outrage an insertion in the *Neighbor*, that the public mind may be disabused and the disgrace and shame fall on those who have justly deserved it and merited the people's rebuke!

On Friday morning the 26th inst. I was informed by Mr. O. [Orin] P. Rockwell that one Mr. Augustine Spencer, had committed an assault on the person of Alderman Orson Spencer, and the Mayor of the city [Joseph] had sent for A. Spencer and found him in Mr. Marr's Law Office; made him a prisoner and informed him he must go with me to the Mayor's Office, when he said he would not go! I then called upon R. D. Foster, C. L. Higbee, and C. A. Foster, to assist me in taking said Spencer to the Mayor's Office; but they swore they would not and used many threatening oaths, and aspersions, saying they would see the Mayor and the city damned and then they would not, but soon followed me and Mr. A. Spencer to the office door, when the Mayor ordered me to arrest those three men for refusing to assist me in the discharge of my duty, and when attempting to arrest them they all resisted and with horrid imprecations threatened to shoot. I called for help and there not being sufficient, the Mayor laid hold on the two Fosters at the same time. At that instant C. A. Foster drew a double barrel pistol on Mr. [Joseph] Smith; but it was instantly wrenched from his hand, and afterwards he declared he would have shot the Mayor if we had let his pistol alone, and also he would thank God for the privilege of ridding the world of a tyrant. C. L. Higbee responded to Foster's threats, and swore that he would do it! However the three were arrested and brought before the Mayor, whereupon O. P. Rockwell, Joseph Cooledge, J. P. Green, and E. Tufts testified to the amount of the above statements, upon which the Court assessed a fine of one hundred dollars to each of the above named aggressors, (who appealed to the Municipal Court. . . . J. P. G. (*Nauvoo Neighbor*, May 1, 1844))

**Joseph's Mother's Statement That Joseph
Was Almost Shot While Aiding the Marshal**

Lucy Smith, mother of Joseph, wrote in her autobiography:

There was also another individual, named Augustine Spencer, a dissolute character, (although a member of an excellent

family), who, I believe, was concerned in this conspiracy. About the time of [M. G.] Eaton's disclosures, this man went to the house of his brother Orson, and abused my sons and the Church at such a rate that Orson finally told him that he must either stop or leave the house. Augustine refused, and they grappled. In the contest, Orson was considerably injured. He went immediately to Joseph, and, stating the case, asked for a warrant. Joseph advised him to go to Doctor Foster, who was a justice of the peace. Accordingly, he went and demanded a warrant of Foster, but was refused. On account of this refusal, Foster was brought before Esquire Wells, and tried for non-performance of duty. At this trial Joseph met Charles Foster, the doctor's brother, who attempted to shoot him, as soon as they met, but was hindered by Joseph's catching his hands, and holding him by main force, in which way Joseph was compelled to confine him above an hour, in order to preserve his own life. (Lucy Smith, *Biographical Sketches of Joseph Smith the Prophet and His Progenitors for Many Generations*, 350–351)

Plural Marriage Accusations against Joseph and Hyrum Are Historically Wrong

An article in the *Warsaw Signal* entitled “The Nauvoo Block and Tackle” was written by one who signed his name “An Exile.” Upon reading the article, it is evident that it was written in order to entice the public to believe the falsehood that Joseph was responsible for the polygamy practiced earlier at Kirtland and in 1844 at Nauvoo.

Evidence was given in chapters 1, 2, and 6 that polygamy was practiced by some members of the Church at Kirtland during the 1830s. There is documentation that shows Joseph was in the forefront of exposing the practice of that doctrine. He placed a document “On Marriage,” which condemned polygamy, in the 1836 edition of the Doctrine and Covenants. (That “Marriage” document is Section 111 in the RLDS Doctrine and Covenants published by Price Publishing Company in 1996.) In spite of what the anonymous author of “The Nauvoo Block and Tackle” wrote, Joseph did not introduce plural marriage into the Church. Polygamy was brought into the Church by some of the newly

baptized Cochranites, “gathering” to Kirtland with their “spiritual wives.” Before being baptized into the Church, they had been members of a polygamous sect called Cochranites, who resided in Maine, Massachusetts, and surrounding states. A number of them were baptized and gathered to Kirtland without giving up their polygamous practices or beliefs. Their polygamy brought reproach upon the Church and gave evil persons the opportunity to place the blame for polygamy in the Church upon the innocent Prophet. (For further information on the Cochranites see *Joseph Smith Fought Polygamy*, Volume 1, chapters 1 through 4.)

It is obvious that “The Nauvoo Block and Tackle” was the creation of a conspirator whose aim was to do as much harm to Joseph’s character as was possible. It did not accurately describe the origin of polygamy in the Church as it pretended to document. The article stated:

The Nauvoo Block and Tackle.

MR. EDITOR:—I have frequently noticed in the columns of your paper, articles concerning the doctrine of Spiritual Wives, a part of the *Mormon creed*. Nothing as yet has come to my view which gave entire satisfaction; and as it is my turn now, just command silence for a few moments that I may have a hearing. In the year 1834, at Kirtland Ohio, the aforementioned step in the heavenly stairway was located. Much excitement grew out of this measure; many of the Saints demurred, and the more knowing ones readily perceived that it was entirely too liberal in its provisions—even to be constitutional. In a word, the Saints rejected it; only a few of the more licentious delighting in it. The doctrine was hushed up, as being sent before its time—for be it known that Mormonism is a system of progression. The next glimpse I obtained of this hellish Spiritual Wife doctrine, was in the year 1838, just on the eve of hostilities in Missouri. The presence of the enemy furnished subjects for reflection, to the exclusion of the old eye-sore [polygamy] for the second time. But iniquity never lies dormant. No sooner did prosperity smile upon the fraternity in Nauvoo, than the secret workings of the same faction were set in motion. . . . Counsel

met. . . . Counsel adjourned—and the following became the order of the kingdom: It is the privilege of the saints to be united to their better half in time for eternity; and then they can be sealed up to eternal felicity in the celestial kingdom. Of course this was very acceptable, and productive of great joy, particularly among the firm Smithites. The Patriarch of the Church [Hyrum Smith] is the only one who officiates in these matters, and he complains of being bothered by applications, but some think difficult questions are more his evil genius than many applications.—But to the qualifications. Brother S. desires to be united to his wife for eternity and in order to do the thing correctly, he takes advice from some one entitled to give the same; and to his mortification, he learns that he cannot be benefited in this way until his *tithing* is paid on the Temple—which is every tenth day, and a tenth of all his property. The prize is too great to loose, so this tithing is paid over into the hands of the Trustee in Trust, and brother S. and his lady are united for eternity, who depart rejoicing. . . . AN EXILE. (*Warsaw Signal* [April 24, 1844], 2)

It is obvious that “An Exile” wrote with one purpose—to assist in causing Joseph’s death or downfall. The above article, and many more similar to it, aroused the public, confused many Saints, and set the stage for the deaths of Joseph and Hyrum.

It is possible to see, within the writings of the conspirators, traces of false doctrines that accompanied the plural marriage doctrine as practiced under the leadership of Brigham Young. Those false teachings later became strong beliefs in the Utah LDS Church under Young’s presidency. Those doctrines included the doctrine of plural marriage, the attaining of a higher state of salvation by marrying plurally, the belief in a plurality of gods, the Adam-god theory, the progression to godhood, the practicing of blood atonement, temple secrets, and the wearing of secret temple undergarments. In Joseph’s day, until the present time, some have incorrectly taken the fact that these doctrines were talked of and preached by apostate ministers during Joseph’s lifetime to be proof that they were introduced by him. But that is not true! Those false

doctrines were being taught before Joseph was killed, but he and Hyrum spoke against such and sought to eradicate them.

Hyrum's letter to Richard Hewitt (which was extensively reviewed in chapter 8) gives evidence that in March 1844 apostate elders were teaching false doctrines, which later were enshrined in Salt Lake City in the plural marriage document known as Section 132. Those false doctrines and the elders preaching them were condemned by both Joseph and Hyrum. The next two chapters deal extensively with Hyrum's involvement in fighting against polygamy.

Conclusion

Joseph's resistance to those who were charging him with having plural wives is another evidence that he was monogamous. If he had been guilty, he would not have risked his life to arrest and bring to court Augustine Spencer, who was sure to raise the accusation of polygamy against Joseph in a court of law. In challenging these violators, who were also his accusers, Joseph was following a policy which would surely, sooner or later, place him and them in a court of law. They would have subjected everyone to answer questions under oath concerning the plurality of wives charges.

A guilty man does not invite such investigations, but Joseph *did* invite them, just as an innocent man would have been expected to do! Joseph went face-to-face with his accusers and even went hand-to-hand with them when they pulled weapons to kill him. He *wanted* to meet them in the courts of the land and under oath to declare his innocence and to hold them legally accountable for their slanders against him.