

The Temple Lot Case: Fraud in God's Vineyard **S. Patrick Baggette, II**

And many people shall go and say, Come ye, and let us go up to the mountain of the Lord, to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths: for out of Zion shall go forth the law, and the word of the Lord from Jerusalem.

—Isaiah 2:3 King James Version and II Nephi 8:19 Book of Mormon

Introduction

The Temple Lot Case was instituted to remove the cloud on title to a certain piece of real estate just west of the Independence Courthouse in Jackson County, Missouri. Several religious factions simultaneously claimed title to this property. Further, this property was not to be given up by any of the parties without a struggle of Homeric proportions, as it was (and is) believed by the factions that on this lot the apocalyptic Temple of the Lord would one day stand.¹

Background

Joseph Smith Jr. was born 23 December 1805 at Sharon, Windsor County, Vermont.² He was the fourth of nine children and third son of Joseph and Lucy Mack Smith.³ Joseph Smith Sr., a farmer, evidently was not much of a businessman. He appears to have been very industrious but frequently fell prey to the devious tactics of cunning speculators.⁴ After a series of crop failures in Vermont, the Smiths moved to the new state of New York and settled in Palmyra, Ontario (now Wayne) County, New York.⁵ The Smiths purchased “new land” in what was known as the Phelps and Gorham Purchase. At this time, Palmyra was a “place of considerable business” that included weaving and milling (Palmyra was later to become an Erie Canal Town).⁶ Four years later, the Smiths moved across Ontario County to Manchester, New York. It was in this town that Joseph Smith Jr., an under-educated youth of fifteen, would convulse the religious community of his home.

Two years after moving to Manchester, New York, a great religious upheaval took place

¹ See Revelation 21:3, King James Version.

² Inez Smith Davis, *The Story of the Church: A History of the Church of Jesus Christ of Latter Day Saints, and of Its Legal Successor, the Reorganized Church of Jesus Christ of Latter Day Saints*, fifth edition (Independence: Herald House, 1955).

³ Mary Audentia Smith Anderson, *Ancestry and Posterity of Joseph Smith and Emma Hale, with Little Sketches of Their Immigrant Ancestors, All of Whom Came to America between the Years 1620 and 1685, and Settled in the States of Massachusetts and Connecticut* (Independence: Herald House, 1929).

⁴ Davis, *The Story of the Church*, 42.

⁵ Joseph Smith, *Joseph Smith Tells His Own Story* (Independence: Press of Zion's Printing and Publishing, 1977).

⁶ Horatio Gates Spafford, *A Gazetteer of the State of New-York: Embracing an Ample Survey and Description of Its Counties, Towns, Cities, Villages, Canals, Mountains, Lakes, Rivers, Creeks, and Natural Topography: Arranged in One Series, Alphabetically with an Appendix: With a New Map and Profiles of the Canals* (printed by the author, 1824), 27.

with several denominations crying for the attention and ultimate conversion of their respective listeners. At first, the preachers were happy merely to have someone join a church, whichever the convert might chose; however, this feeling didn't last long when the people of the community began to move in greater numbers to opposing denominations. Joseph Smith Jr. was fifteen at this time and later related that "[a] scene of great confusion and bad feeling ensued; priest contending against priest, and convert against convert, so that all the good feelings, one for another, if they ever had any, were entirely lost in a strife of words, and a contest of opinion."⁷ Four of Joseph Smith Jr.'s family were proselyted to the Presbyterian faith (his mother, his brothers Hyrum and Samuel Harrison, and his sister Sophronia.)⁸

In the spring of 1820, Joseph Smith Jr. was confused as to which church he should join. He seems to have preferred the Methodist Church; but, he was not sure if he should join them. He wondered whose doctrine was correct, if any, and how he could find out. One day, while laboring under these divisive feelings, he read from the Epistle of James 1:5 King James Version: "If any of you lack wisdom, let him ask of God, that giveth to all men liberally and upbraided not; and it shall be given him." Joseph decided that he would exercise the option and determined to go to the wooded land adjoining his family's property to pray for guidance.

When he had arrived at the place previously chosen, he knelt down to pray vocally, for the first time in his life.⁹ He had no sooner begun to pray when some power overcame him so that he could not speak. He called on God to deliver him and at the moment of his greatest despair, a light appeared directly overhead and descended until it fell on him. In the light, Joseph saw two personages standing above him in the air. One of the personages called Joseph by name and said, (pointing to the other), "This is my beloved Son, hear him."¹⁰ Joseph was commanded to join none of the churches competing for his attention and was given a promise that "the fullness of the gospel should at some future time be made known unto [him]."¹¹

A few days later, Joseph related what had happened to him to one of the Methodist preachers who promptly dismissed the vision as being of the devil. He soon found that even though he was a young, obscure boy of fifteen, persecution knows no age limit. It appears that despite the differences among the religious sects, they all united against the boy and his vision.

Later in life, Joseph Smith Jr. compared his feelings to those of the apostle Paul when he made his defense before King Agrippa concerning his vision when he "saw a light and heard a voice."¹² He continued:

So it was with me; I had actually seen a light, and in the midst of that light I saw two personages, and they did in reality speak unto me or one of them did; and though I was hated and persecuted for saying that I had seen a vision yet it was true, and while they were persecuting me, reviling me, and speaking all manner of evil against me falsely for so saying, I was led to say in my heart, Why persecute me for telling the truth? I have actually seen a vision, and "who am I that I can withstand God," or why does the world think to make me deny what I have actually

⁷ Smith, *Joseph Smith Tells His Own Story*, 5.

⁸ Ibid.

⁹ Ibid., 7.

¹⁰ Ibid., 9.

¹¹ Letter from Joseph Smith Jr. to Joseph Wentworth, editor of the *Chicago Democrat* printed in the *Times and Seasons* 3 (1 March 1842):706. This is the first published statement of early Church history

¹² Smith, *Joseph Smith Tells His Own Story*, 11.

seen, for I had seen a vision; I knew it, and I knew that God knew it, and I could not deny it, neither dare I do it; at least I knew that by so doing I would offend God and come under condemnation.¹³

For three years, Joseph suffered the ridicule of the community resulting from his profession of the vision. Then on 21 September 1823, the angel Moroni appeared before Joseph and told him that God had "a work for [him] to do and that [his] name would be had for good and evil, among all nations, kindred, and tongues; or that it should be both good and evil spoken of among all people."¹⁴ Further, the angel told Joseph that he was to translate a book written on gold plates in fulfillment of Old Testament prophesy, which book gives an account of the former inhabitants of the American continent and the source from which they came.

To aid him in the work he would be provided with the Urim and Thummim, which were with the plates. The Urim and Thummim are also known as "interpreters" and were used by the Israelite high priests¹⁵ to behold the will of God for the guidance of the Lord's people. The "interpreters" were to be used to translate the writings on the plates of gold into a book. This book was to be called the Book of Mormon.

Book of Mormon

The Book of Mormon purports to be a sacred history of the former inhabitants of the American continent and, also, purports to record the origin of these people. This history was recorded on gold plates by certain priests. The last priest (Moroni) traveled from Central America in 421 C.E.¹⁶ and buried the plates, the Urim and Thummim, and the sword of Laban in Hill Cumorah located in what is now New York state.¹⁷

On 22 September 1827, Joseph Smith Jr. was led to Hill Cumorah and was permitted to remove the Urim and Thummim and the gold plates for the purpose of their translation.¹⁸ This translation was called the Book of Mormon, whose primary purpose is "the convincing of the Jew and the Gentile that Jesus is the Christ, the Eternal God, manifesting himself unto all nations."¹⁹

Organization of the Church

On Tuesday, 6 April 1830, the Church of Jesus Christ was organized at Fayette, New York.²⁰ This occurred just seven months before the first American railroad train made its inaugural run from Schenectady to Albany in New York, a distance of seventeen miles.²¹ In December 1830, the church (which numbered about seventy members) received a revelation "directing them to translate no more until they had removed to [the state of] Ohio" and, on 2

¹³ Smith, *Joseph Smith Tells His Own Story*, 12.

¹⁴ *Ibid.*, 14.

¹⁵ See Exodus 28:30 King James Version and also Ezra 2:63 King James Version.

¹⁶ Book of Mormon (Independence: Herald House, 1908).

¹⁷ Davis, *The Story of the Church*, 36.

¹⁸ *Ibid.*, 593.

¹⁹ Book of Mormon, i.

²⁰ Joseph Smith Jr., *History of the Reorganized Church of Jesus Christ of Latter Day Saints*, volume 4 (Independence: Herald House, 1986), 79. Hereafter *RLDS History*.

²¹ Davis, *The Story of the Church*, 31.

January 1831, the Church received a revelation commanding the church to gather to Kirtland, Ohio.²²

While located in Kirtland, Ohio, the Church received a revelation that the next General Conference was to be held in Missouri, and several of the elders were called to go, two by two, by different routes and meet in Independence, to hold the Conference there.²³ Joseph Smith Jr. was among the people commanded to go to Independence.²⁴ He left Kirtland on 19 June and was among the first to arrive in Independence.²⁵

Movement of the Church

While in Independence, Missouri, in July 1831, Joseph Smith received a revelation pointing out the exact spot for the building of the temple.²⁶ On 3 August 1831, Joseph, along with nine elders, dedicated a certain piece of ground a little west of the city of Independence for the building of the temple.²⁷ After the ceremony, Joseph returned to Kirtland, Ohio, while the others remained to take care of Church business, which included the preparation for the relocation of Church headquarters to Independence. During this time, Kirtland, Ohio, served as the headquarters of the Church, and Independence was its chief mission. Not all fared well for the Church, however.

In 1833, the Saints (this being the term by which members of the church referred to themselves) were driven out of Jackson County by angry mobs that were angered by their block voting powers, Eastern (anti-slavery) ways, and religious arrogance.

In July 1833, tensions were growing to a fever pitch. The animosity between the long-time residents of Jackson County, Missouri, and the never-ceasing flow of Eastern converts provided a breeding ground for hatred and mob rule. On 21 July 1833, the Saints wrote to Missouri Governor Daniel Dunklin and asked for protection and redress for the wrongs they had suffered.²⁸ On 19 October 1833, Dunklin replied by declining to help, instead referring the Saints to the Justice of the Peace in their respective counties.²⁹ On 7 November 1833, the Saints were expelled from Jackson County under the extreme duress of mob violence.

After leaving Jackson County, the Saints crossed the Big Blue River and settled in Clay County, predominately near Liberty, Missouri. From this location, they petitioned the Governor of Missouri to restore them to their property. Once again, the governor declined to offer any assistance.³⁰ On 10 April 1834, the Saints petitioned Andrew Jackson, president of the United States of America, for relief from the savage religious persecution that was visited on them.³¹ He referred the matter to the War Department, which was headed by Lewis Cass, secretary of

²² *RLDS History*, volume 1, 165; Davis, *The Story of the Church*, 112.

²³ Doctrine and Covenants Section 54 (Independence: Herald House, 1978).

²⁴ *Ibid.*; *RLDS History*, volume 1, 184.

²⁵ *RLDS History*, volume 1, 201.

²⁶ *Ibid.*, 203; Doctrine and Covenants Section 57.

²⁷ F. Henry Edwards, *The Edwards Commentary on the Doctrine and Covenants* (Independence: Herald House, 1986); *RLDS History*, volume 1, 209.

²⁸ *RLDS History*, volume 1, 320.

²⁹ *Ibid.*, 321.

³⁰ *Ibid.*, 404.

³¹ *Ibid.*, 413.

war, who referred the matter back to the state of Missouri.³² On 16 June 1834, the Saints, recently expelled to Clay County, met with representatives from Jackson County to hear a proposal that they sell all their property and never return to Jackson County.³³

The relocation of the church to Clay County seemed to calm the passions of the mob at least for a season. However, on 26 July 1836, the Saints were asked to move, this time by the people of Clay County.³⁴ Trying to find a solution to the settlement problem, the Saints introduced an act in the legislature to organize a new county.³⁵ The act providing for the formation of Caldwell and Daviess Counties was approved by Governor Daniel Dunklin on 29 December 1836.³⁶

Back at Church headquarters in Kirtland, Ohio, events comparable to those in Jackson County, Missouri, were transpiring. Mobs continued to press their afflictions on the Saints. These malicious acts included the burning of the Saints' printing press and the filing of frivolous lawsuits that compelled their attendance in court away from home and family. However, the persecution in Kirtland seemed to be primarily financial as opposed to the physical and financial deprivation endured by the Saints in Jackson County, Missouri.

The year of 1838 proved to be one of horror for the Church headquarters located in Kirtland, Ohio, and its significant mission now located in Caldwell County, Missouri. On 12 January 1838, members of headquarters were chased out of Ohio by mobs plotting to kill the prophet (Joseph Smith Jr.) and his assistant.³⁷ The members made their way from Ohio to the body of members in Caldwell County. This influx of Saints alarmed the people of Missouri and resulted in the Mormons not being allowed to vote in the elections held in Daviess County in August 1838.³⁸ This caused intense friction and resulted in the "beginning of the end" for the Saints domiciled in Missouri. Tensions continued to mount until 27 October 1838. On this date, Missouri Governor Lilburn W. Boggs issued his now-famous order that provided "the Mormons must be treated as enemies, and must be exterminated or driven from the State, if necessary, for the public's good."³⁹ Only through the determined efforts of General Alexander W. Doniphan of the first state militia were the Saints not completely annihilated.

On 30 October 1838, "the direct and legitimate result of the exterminating order of the chief executive (Governor Lilburn W. Boggs) of the State of Missouri," was the Haun's Mill Massacre.⁴⁰ Of the twenty families that lived in Haun's Mill, almost all were killed or wounded.⁴¹ Thereafter, all remaining Saints still residing in Missouri fled to Commerce (later renamed Nauvoo), Illinois.

Once again, things were relatively calm for the Saints until eventually mob violence crowded around their settlement. This violence resulted in the murder of Joseph Smith Jr. in

³² *RLDS History*, volume 1, 417.

³³ *Ibid.*, 495.

³⁴ *RLDS History*, volume 2, 66.

³⁵ *Ibid.*, 77.

³⁶ *Ibid.*, 78.

³⁷ *Ibid.*, 136.

³⁸ *Ibid.*, 167.

³⁹ *Ibid.*, 217.

⁴⁰ *Ibid.*, 224.

⁴¹ *Ibid.*, 231.

Carthage, Illinois, on 27 June 1844.⁴² With the martyrdom of the prophet, power immediately descended to the president of the Quorum of the Twelve Apostles, who at that time was Brigham Young. Young was to hold this power until the successor to Joseph Smith Jr. could rightfully assume his place. In a cunning usurpation of authority, Brigham Young led the majority of the Church hierarchy and membership away from Nauvoo, Illinois, to Winter Quarters (near what is now Omaha, Nebraska,) to prepare for their trip to California; however, the actual journey terminated at the Salt Lake Valley. Brigham Young also took the historical name of the Church—Church of Jesus Christ of Latter Day Saints and the term “Mormon” to identify his followers.

In due time, the successor to Joseph Smith Jr. took his place and led the reorganization of the otherwise shattered Church. This successor was Joseph Smith Jr.’s son (Joseph Smith III), who was set apart for this responsibility by his father on no less than four occasions. This group became known as the Reorganized Church of Jesus Christ of Latter Day Saints and was incorporated under the laws of Iowa at the time of the reorganization.

Another group that was to play a part in the Temple Lot Suit became known as the Hedrickites, also referred to as The Church of Christ. They were followers of Granville Hedrick and had alienated themselves from the main group of Mormons in 1835 when a certain revelation dealing with the form of Church leadership was received.⁴³ However, they were one of the first “Mormon” groups to return to Jackson County, Missouri, in February 1867, after the Saint’s expulsion in 1833.⁴⁴ This group held possession of the Temple Lot when the lawsuit was initiated.

Pre-Conflict Chain of Title

For ease of understanding, the significant transactions involving the title to the Temple Lot have been arranged into two segments, Pre- and Post-Conflict transactions. For purposes of this article, the Pre-Conflict transactions are primarily defined as those transactions that were not the subject of the Temple Lot suit.

In chronological order, the Pre-Conflict transactions are as follows:

1803 France to the United States, via the Louisiana Purchase.⁴⁵

1825 Osage Indian Nation to the United States.⁴⁶

1828 The United States to the State of Missouri, by Act of Congress, 24 January 1827.⁴⁷

1831 State of Missouri to Jones Hoy Flournoy.⁴⁸

1831 Jones H. Flournoy and Clara Flournoy to Edward Partridge.⁴⁹

⁴² *RLDS History*, volume 2, 241.

⁴³ Bert C. Flint, *An Outline History of the Church of Christ (Temple Lot)* (Independence: Church of Christ, Temple Lot, 1979).

⁴⁴ *Ibid.*, 108.

⁴⁵ Treaty of Paris, 30 April 1803, United States–France, 8 Stat. 200 (1803).

⁴⁶ Treaty of St. Louis, Missouri, with Great Osage and Little Osage, 2 June 1825, United States–Osage, 7 Stat. 240 (1825).

⁴⁷ Jackson County Deed Book 456, page 46.

⁴⁸ Jackson County Deed Book 163, pages 60–61. (However, the originals of this transaction are not available. In their stead, certified certificates 83 and 84 are used).

⁴⁹ Jackson County Deed Book B, page 1. This deed created the famous 63.27 acre

The foregoing is the actual chain of “pre-conflict” legal title. However, this sterile presentation is not without its intrigue. As mentioned earlier, Joseph Smith Jr. and several elders of the original Church met on the Temple Lot on 3 August 1831 and dedicated the land to be the site of the temple.⁵⁰

Also, at this time Joseph Smith Jr. staked a claim to the site by blazing a tree and placing a stone marker on the site.⁵¹ Either of these methods of staking a claim was considered acceptable.⁵² Many historians have thought that the elders at the temple site dedication did not know who owned the land. However, this is not true; they knew that the state of Missouri had title to the land and that the land would be granted for purchase in the coming December.⁵³ It was common knowledge that lands belonging to the government would be sold to individuals. To facilitate their purchase Joseph Smith Jr. and others returned to Kirtland, Ohio, to collect money for that purpose and left Bishop Edward Partridge in Independence to receive the forwarded money and complete the transaction.⁵⁴

When December and the awaited state disposition of land finally arrived, a strange event happened. An individual named Jones Hoy Flournoy purchased the site⁵⁵ instead of Bishop Partridge. Richard Price and Pamela Price, in *The Temple of the Lord*, stated:

History does not record why Bishop Partridge did not acquire the Temple Site land before Jones H. Flournoy did. But it is surprising that the Flournoys held the Temple Site for only one week—and then sold it to Bishop Partridge for the same amount they paid for it—two dollars per acre. What is more surprising is that they sold 63.27 acres to the Bishop out of the very heart of their new 160 acre total.⁵⁶

Thus, it appears the Flournoys jumped the claim of the Church and, in order to keep the peace, sold to the “rightful owner” a very large portion of the new purchase at no profit. It should be noted that title was made by Bishop Partridge in his own name because the Missouri Constitution of 1821 prohibited the taking of title in the name of a church.⁵⁷ However, it was understood that the property was purchased with funds obtained from the members of the Church and that Bishop Partridge held the property in trust for the Church.⁵⁸ From the foregoing, it would seem that the land was destined to be the center of controversy.

Post-Conflict Chain of Title

There are three significant deeds in the post-conflict chain of title. They are: the Cowdery deed, the Poole deed, and the Harris deed. Two of these deeds appear to be fraudulent misrepresentations and the remaining deed, possibly the only valid deed, is never even heard of

Temple Tract (which contains the 2 acres comprising the Temple Lot.)

⁵⁰ *RLDS History*, volume 1, 209.

⁵¹ Richard Price and Pamela Price, *The Temple of the Lord: The Location and Purposes of the Temple, Which Is to Be Built in Independence, Missouri* (Independence: Price Publishing, 1985).

⁵² *Missouri Historical Review* (July 1928); Price, *The Temple of the Lord*, 33.

⁵³ Price, *The Temple of the Lord*, 28.

⁵⁴ *RLDS History*, volume 1, 211; Price, *The Temple of the Lord*, 33.

⁵⁵ Jackson County Deed Book 163, 60–61.

⁵⁶ Price, *The Temple of the Lord*, 35.

⁵⁷ Edwards, *The Edwards Commentary on the Doctrine and Covenants*, 225.

⁵⁸ *Ibid.*

until 1977.

Cowdery Deed

On its face, the Cowdery deed purports to transfer title of all lands from Bishop Partridge to the children of Oliver Cowdery (John, age 7; Jane, age 3; and Joseph Smith Cowdery, age 1) for the sum of \$1,000.⁵⁹ This purported warranty deed was not dated but an accompanying affidavit was dated 25 March 1839. In addition, it was not recorded until 7 February 1870.⁶⁰ It should be noted that the Saints were evicted from Missouri under Governor Boggs's extermination order in the latter part of 1838; thus, if the date of the attached affidavit is correct, the transfer was made under less than ideal circumstances.

There are several flaws present in the Cowdery deed that reveal it to be fraudulent. The first flaw is that the deed was not dated and the affidavit attached, dated 25 March 1839, was signed before Judge Elias Higbee in Caldwell County, Missouri, after he ceased to be a judge in that county.⁶¹ Second, the deed was signed by Bishop Partridge in Caldwell County when the bishop was actually in Illinois.⁶² Third, the deed purported to sell the land to Oliver Cowdery as an elder in the Church, even though he had been expelled on 11 April 1838 and was not considered a member at that time.⁶³ Finally, the children mentioned in the deed never existed⁶⁴ A possible explanation for naming the heirs incorrectly is that in the emotionally charged setting following the expulsion, Bishop Partridge actually meant "Josephine" Cowdery when he wrote "Joseph Smith" Cowdery.⁶⁵ Also, Oliver Cowdery did not have a son named John, but his brother Warren did.⁶⁶ Despite the possible explanations, it must be remembered, "Oliver Cowdery was a lawyer, and never would have accepted a deed which failed to name his two heirs!"⁶⁷ In *The Temple of the Lord*, Richard Price further stated: "It should be noted also that at the Winter Quarter Council Meeting on April 26, 1848, when the [sale of] the Temple Site was discussed, the name of Oliver Cowdery was not mentioned. If Bishop Partridge had made a deed to Oliver [Cowdery] in 1839, these apostles would have known it. This is especially true of Brigham Young, for Oliver's half sister, Lucy, was married to Brigham's brother, Phineas Young."⁶⁸

On Oliver Cowdery's death in 1850,⁶⁹ Oliver's widow, Elizabeth Whitmer Cowdery, and his only living child, Marie Cowdery Johnson, became vested with title under the Cowdery deed.⁷⁰ On 29 May 1886, Elizabeth Ann Cowdery (widow of Oliver Cowdery) deeded the

⁵⁹ *RLDS History*, volume 2, 662.

⁶⁰ Jackson County Deed Book 73, page 432; Price, *The Temple of the Lord*, 65.

⁶¹ *RLDS History*, volume 2, 157; Price, *The Temple of the Lord*, 65.

⁶² *RLDS History*, volume 2, 355; Price, *The Temple of the Lord*, 65.

⁶³ *RLDS History*, volume 2, 150.

⁶⁴ Price, *The Temple of the Lord*, 68.

⁶⁵ Edwards, *The Edwards Commentary on the Doctrine and Covenants*, 224.

⁶⁶ *Ibid.*

⁶⁷ Price, *The Temple of the Lord*, 68.

⁶⁸ *Ibid.*

⁶⁹ Davis, *The Story of the Church*, 73.

⁷⁰ Edwards, *The Edwards Commentary on the Doctrine and Covenants*, 225.

property to her daughter, Marie Louise Johnson.⁷¹ By quitclaim deed dated 9 June 1887, Marie Louise Johnson and Doctor Charles Johnson, her husband, deeded the property to George A. Blakeslee, a bishop and trustee of the Reorganized Church of Jesus Christ of Latter Day Saints (RLDS).⁷² It was under this claim of title of the Cowdery deed that the RLDS Church based its ownership.

Poole Deed

The Poole deed, in contrast to the Cowdery deed, purports to be a transfer of title from the heirs of Bishop Edward Partridge. On its face, the quitclaim deed by Bishop Partridge's widow, Lydia Partridge, and his three children assigned title on 5 May 1848 to James Poole for \$300 consideration.⁷³

A few months later, the same James Poole was in financial difficulty. The result of his predicament is quite apparent in the actions of the Circuit Court of Jackson County, for the sheriff levied the same property that Poole had recently acquired and sold the same to John Maxwell for \$1,315.⁷⁴ John Maxwell then entered into an agreement with Samuel H. Woodson, whereby Maxwell agreed to give a portion of his newly acquired property by quitclaim to Woodson in exchange for Woodson's platting the land.⁷⁵ The plat became an addition to the city of Independence and was known as the Maxwell-Woodson Addition. However, Maxwell died without executing the quitclaim deed. Woodson brought suit against the Maxwell Estate and prevailed. The court, to satisfy the obligation to Woodson, ordered a sheriff's sale of all the real property owned by Maxwell and the Temple Lot property was fractured into eight lots that descended to five hands.⁷⁶ After several mesne conveyances, the Temple Lot property was united in the hands of Granville Hedrick, trustee of the Church of Christ, on 5 March 1877.⁷⁷

This chain of title appears to be very convincing; however, as with the Cowdery deed, there was a fatal flaw. Following the martyrdom of Joseph Smith Jr. in 1844 and the rise to power of Brigham Young, preparations were made for the exodus while his followers camped at Winter Quarters (near Omaha), Nebraska. This mass exodus ended at the Salt Lake Valley in 1848. James Poole, a blacksmith in Independence, "sent his agent, a Mr. Pearson, to Winter Quarters where the Saints were camped with Brigham Young in preparation for the trek to Utah. Mr. Pearson did business with a churchman named J. A. Kelting who relayed a message to the apostles. The apostles, in turn held a council meeting on April 26, 1848."⁷⁸ The record of that meeting became known as the "Winter Quarters Document"⁷⁹ and "escaped the public eye

⁷¹ Jackson County Deed Book 146, page 139.

⁷² Jackson County Deed Book 146, page 544.

⁷³ Jackson County Deed Book N, page 203.

⁷⁴ Jackson County Deed Book O, page 99; Arthur M. Smith, *Temple Lot Deed: A Complete Record of All Legal Transfers of That Interesting Spot of Ground Known at the Temple Lot* (Independence: Church of Christ, Temple Lot, 1973).

⁷⁵ Smith, *Temple Lot Deed*, 7.

⁷⁶ Jackson County Deed Book N, page 244.

⁷⁷ Jackson County Deed Book 115, page 452.

⁷⁸ Price, *The Temple of the Lord*, 44.

⁷⁹ Recorder's Office, Minutes of a Council Meeting at Winter Quarters (26 April 1848). Latter-day Saints Archives, Document #MS-f-143-#8.

until Richard and Pamela Price discovered it in the archives of the LDS Church in Salt Lake City in 1977.”⁸⁰ It is very important to note that Brigham Young was married to one of the Partridge heirs (Emily Dow Partridge) and the sale meant substantial financial gain for his family.⁸¹ In addition, Brigham Young was the recipient of all the records of the original church by virtue of being the president of the Quorum of Twelve (second position of leadership) before the martyrdom of Joseph Smith Jr. in the original church.

A review of the Winter Quarters Document reveals that the apostles knew that: 1. Bishop Edward Partridge had sold the Temple Lot to Martin Harris⁸² (a member of the High Council, i.e., a counselor to Joseph Smith Jr. in the First Presidency),⁸³ 2. this same Martin Harris had not recorded the deed,⁸⁴ and 3. the apostles knew that the Temple tract belonged to Martin Harris, his heir(s), or to one whom he may have sold the land. In spite of this knowledge, they sold a quitclaim deed to James Poole.⁸⁵ Thus, the Poole quitclaim deed was in the context of rightful ownership a nullity because it passed no interest in the real estate.

Harris Deed

Perhaps the most valid of the deeds, the Harris “deed,” represents a transfer from Bishop Edward Partridge to High Council member Martin Harris. However, the fate of the physical deed is unknown. The only record of its existence is contained in the minutes of the Winter Quarters Document⁸⁶ and testimony in the Temple Lot Case.

As mentioned earlier, Martin Harris never recorded the deed transferred from Bishop Partridge. This should not be too surprising because

if Martin Harris had not recorded his deed before March of 1833, when the Saints were expelled, his life would have been in danger if he had returned to Independence to do so. No Saint could have recorded a new deed, especially a prominent man such as Martin Harris, for one of the “Propositions” published by the original settlers of Independence to the Saints in Jackson County provided that, “The Mormons are not to make any effort, ever after, to settle, either collectively or individually, within the limits of Jackson County.”⁸⁷

Harris’s only recourse, thus, appears to be through the mail. In the Winter Quarters Document,⁸⁸ there is a Mr. Kelting who stated that Martin Harris “wrote to Independence that he had sold the land—but there are no deeds, or ever made the appearances.”⁸⁹ If Martin Harris had mailed the deed to Independence, there is a real possibility that it was destroyed as “the postmaster in 1833, at least, was none other than Jones Hoy Flournoy, who had sold the same land to Bishop Partridge two years earlier. And the county clerk, who recorded deeds was Samuel C. Owens. Both of these men signed the petition which resulted in raising the mob

⁸⁰ Price, *The Temple of the Lord*, 44.

⁸¹ John J. Stewart, *Brigham Young and His Wives and the True Story of Plural Marriage* (Salt Lake City, Mercury, 1985).

⁸² Price, *The Temple of the Lord*, 44; Recorder’s Office.

⁸³ *RLDS History*, volume 1, 429.

⁸⁴ Price, *The Temple of the Lord*, 46.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*; Recorder’s Office.

⁸⁷ *RLDS History*, volume 1, 429.

⁸⁸ Recorder’s Office.

⁸⁹ Price, *The Temple of the Lord*, 49.

which drove the saints from their homes in the month of November."⁹⁰

Thus, with all the confusion of title and the emotionally charged contentions as to which faction of the Church was the successor to the original Church and its property, the stage was set for civil intervention by the court. In 1891, the RLDS Church filed a suit in equity in the U.S. Circuit Court at Kansas City, Missouri, against the Church of Christ for possession of the Temple Lot.⁹¹

Trial Level

The trial of the Temple Lot Case⁹² furthered the intrigue that had already surrounded the purported transfers of the property. The complainants in the case, the Reorganized Church of Jesus Christ of Latter Day Saints (RLDS), sought to claim ownership of the subject property by equitable title as successors to the primitive Church, while the defendants in the suit, the Church of Christ (Hedrickites) sought to assert ownership by legal title to the property. No sooner had the Hedrickites entered their appearance than the Church of Jesus Christ of Latter Day Saints (LDS or "Utah" Church) began to actively participate in the defense of the suit, even though the LDS Church was not a party to the action!

The first witness called by the Hedrickites was Woodruff Wilson, president of the LDS Church. Based on testimony obtained in the trial, it appears that Woodruff Wilson arranged for the LDS legal assistance in this case. In addition, it also appears that Mr. Wilson arranged for several people to appear as un subpoenaed witnesses. The extensive legal assistance provided by the LDS Church apparently concerned Judge Phillips (before whom the case was tried) for he asked the defense counsel about the relationship, to which the judge received a response to the effect that the Hedrickites have "absorbed the Mormon (LDS) Church."⁹³ This explanation, however, does not allay his concern, for he finds the LDS Church to be "the power behind the throne" in defense of this case.⁹⁴ Judge Phillips's concerns seem to have been well founded as the attorneys provided by the LDS Church changed the Hedrickite's defense strategy from that of owner of legal title to that of equitable owner as true successor to the primitive Church.⁹⁵

Credibility of Witnesses

The credibility of witnesses in the Temple Lot Case was probably the most important factor in determining the outcome of the suit. The plaintiff (RLDS Church) seems to have played its trump card when it called its third witness. That witness was Joseph Smith III, president, prophet, and seer of the RLDS Church (who claimed to be the true successor to his father's office, both by lineal right and acclamation of the successor Church's membership.)⁹⁶

⁹⁰ *RLDS History*, volume 1, 315; Price, *The Temple of the Lord*, 49.

⁹¹ *RLDS History*, volume 5, 53.

⁹² *Reorganized Church of Jesus Christ of Latter Day Saints v. Church of Christ*, 60 F. 937 (C.C.W.D. Mo. 1894); rev'd, 70 F. 179; reh'g denied, 71 F. 250 (8th Cir. 1895); cert. denied, 163 U.S. 681 (1896).

⁹³ *Ibid.*, 951.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ J. Orr, "Complainant's Abstract of Pleadings and Evidence," 1893. Hereafter referred to as Abstract.

It appears that Joseph Smith III developed credibility with the Court when he testified at length on how purported revelations became law in the primitive Church (under the leadership of his father, Joseph Smith Jr.)⁹⁷ Further, he seems to have solidified his credibility when he encouraged opposing counsel, during the plaintiff's rebuttal, to ask any question concerning his father's alleged practice of polygamy: "proceed with your inquiry without regard for my feelings for I have none whatever in the matter, I am here to answer every question that is legitimate, or that has any bearing on this case in any way, shape, or form. I will answer any question you put to me that meets these requirements."⁹⁸ The balance of the plaintiff's (RLDS) witnesses also took this tack and none refused or evaded questions posed them by either party's counsel.

In contrast, the LDS/Hedrickite witnesses openly evaded questions. The following is an excerpt of the testimony of Lyman O. Littlefield, president of the Quorum of Seventy in the LDS Church:

Q: Did you in your correspondence with Joseph Smith [III] . . . in relation to this revelation on polygamy . . . say that Brigham Young . . . claimed that no man on earth ever saw that revelation until . . . 1852, or that had a copy of it?

A: I do not remember that.

Q: Could you swear you did not write that?

A: I cannot say. I do not remember anything about it. The correspondence speaks for itself, and is still in existence, I suppose.

Q: Well, if it is in there, is it true?

A: I do not remember if it is in there or not. I remember nothing about it.

Q: Well, if it is in there, is it true?

A: The correspondence speaks for itself, and is still in existence.

Q: If that statement is in reply that you wrote to Joseph Smith [III] is it true?

A: I guess you are familiar with it.

Q: Well, yes, I guess I am just as familiar with it as you are, just exactly . . . I have no doubt but that you know right well what is in it, but if you are willing to go on record as evading the question in that way, all right.⁹⁹

The defense witness (Littlefield) did not answer the question and, a little later in the examination, the following exchange took place:

Q: Who notified you to appear as a witness?

A: I am willing to answer the question if I am compelled to answer it.

By the examiner: "Answer the question."

Answer of witness: Wilford Woodruff, the President of the Church in Utah; he notified me to appear.¹⁰⁰

Thus, we see that this was a gratuitous attendance by the witness; he was not subpoenaed to appear, he testified merely because another witness requested his presence.

The same type of behavior was evidenced by Mr. Joseph C. Kingsbury, the defense witness appearing immediately after Mr. Littlefield. The record of the trial reveals that Mr. Kingsbury "refused to take the ordinary oath to 'tell the truth the whole truth and nothing but the truth of his knowledge of and touching the matter in controversy,' but was sworn by

⁹⁷ Abstract, 50.

⁹⁸ Ibid., 496.

⁹⁹ Ibid., 331.

¹⁰⁰ Ibid., 332.

affirmation.”¹⁰¹ In his testimony, he stated that: “An oath is more binding than an affirmation. It is considered to be more serious, that is the way I understand it—that an oath is more binding or more serious than an affirmation. I generally affirm, and I suppose it is because **my understanding is that a man cannot be convicted of perjury on an affirmation**, and he can if he is sworn.” (bold emphasis added)¹⁰²

Another defense witness, Joseph P. Noble, when asked about the names of his wives responded:

I did not say I could not tell the names of all my wives, I might tell some of them. I do not think I could tell the names of any of them, and I swear that I will not tell, just for your damned nonsense. Yes, sir, I am an elder [priest] in the church and I am swearing in court . . . I said it was not your damned business because your question was so nonsensical. I cannot tell the date I took my first plural wife . . . because the date bothers me . . . it might tend to criminate [*sic*] me if I answered that question.¹⁰³

Another defense witness, Mary Rachael Thompson, was constantly prompted by Joseph Fielding Smith, an LDS priesthood member.¹⁰⁴ From the foregoing, we see a less than favorable perception of the veracity of the defendant's witnesses.

Doctrine of the Churches

As previously stated, both parties to the suit claimed to be the rightful owners of the property as the legitimate successor to the primitive Church. With the issue thus framed, the Court was forced to determine what constituted Church doctrine prior to the martyrdom of Joseph Smith Jr. and then determine which Church more closely followed that doctrine.¹⁰⁵

It seems the outcome of the case would be determined by one doctrine—polygamy. Loosely, this was the crux of the case, and it became the duty of the Court to determine if this doctrine had been practiced by the primitive Church. If it had not, the Court must then determine which of the parties initiated the practice thereby terminating their rights as successor to the primitive Church.¹⁰⁶

The first question one must ask is how did a purported “revelation” become doctrine in the primitive Church? Joseph Smith III, plaintiff's witness and president of the RLDS Church, testified that when the purported revelation was received by the primitive Church it had to pass each of the following by unanimous vote: 1. the First Presidency, 2. the Quorum of the Twelve Apostles, and 3. the Quorum of the Seventies. If each of the previous branches (equal in power to another) unanimously approved the revelation as being “of God,” then the revelation was passed on to the body of the Church for the member vote. If a majority of the membership approved the revelation, it was then canonized as a law of the Church and published in the Doctrine and Covenants.¹⁰⁷ Joseph Smith III, president of the RLDS Church, and William Blair, editor of the RLDS newsletter *The Herald*, both testified that this method was used by the

¹⁰¹ Abstract, 333.

¹⁰² Ibid., 339.

¹⁰³ Ibid., 370.

¹⁰⁴ Ibid., 343.

¹⁰⁵ RLDS vs. Church of Christ, 60 F., 950.

¹⁰⁶ Ibid.

¹⁰⁷ Abstract, 50.

RLDS Church.¹⁰⁸ In contrast, defense witness Lorenzo Snow, LDS president of the Quorum of the Twelve Apostles, stated “the entire authority of the Church rested upon the Twelve. Brigham Young [President of the Twelve at the time of Joseph Smith Jr.’s martyrdom] was made President of the Church afterwards.”¹⁰⁹ William Blair, plaintiff’s witness, stated the LDS Church had materially changed the functioning of the First Presidency by making it subservient to the Quorum of the Twelve Apostles.¹¹⁰

Next, one must determine if the purported revelation concerning polygamy went through the procedures outlined above. As mentioned earlier, the Court’s determination of responsibility was critical to the outcome of the trial. As such, the vast majority of the testimony in the case dealt with polygamy. In retrospect, it seems the LDS Church hurt its image in the eyes of the Court by the constant, unwavering espousal of the doctrine of polygamy and their accusation that the doctrine was practiced by the late Joseph Smith Jr. as early as 1842 (two years before his martyrdom).

These claims were refuted in several ways. The defendants, through their chief witness Wilford Woodruff (president of the LDS Church), alleged that Joseph Smith Jr. taught polygamy as early as 1842.¹¹¹ However, John C. Bennett was excommunicated from the primitive Church in October 1842. The official church newspaper, the *Time and Seasons*, ran an article, dated 1 October 1842, that stated:

We, the undersigned members of the Church of Jesus Christ of Latter Day Saints [the primitive church] and residents of the city of Nauvoo, person and families, do hereby certify and declare that we know of no other rule or system of marriage then the one published from the Book of Doctrine and Covenants [of 1835 (specifically Section 101, which provided for monogamous marriage)], and we give this certificate to show that Dr. J. C. Bennett’s “secret wife system” is a creation of his own make as we know of no such society in this place nor ever did.

This proclamation was signed by the Quorum of Twelve, including Wilford Woodruff¹¹² In addition his wife, Phoebe Woodruff, signed a similar document distributed by the Ladies Relief Society and published in the same edition of the *Time and Seasons*.¹¹³ In addition, the *Time and Seasons* made the following proclamation on Thursday, 1 February 1844:

Notice

As we have lately been credibly informed that an elder of the Church of Jesus Christ of Latter Day Saints [at this time the primitive (church)], by the name of Hiram Brown, has been preaching polygamy, and other false and corrupt doctrine, in the city of Lapeer, State of Michigan, this is to notify him, and the church in general, that he has been cut off from the church for his iniquity; and he is further notified to appear at the Special Conference on the 6th day of April next, to make answer to these charges.

Joseph Smith Hyrum Smith¹¹⁴

Further, several witnesses for the plaintiffs and the defendants testified that Joseph Smith Jr. did not preach the doctrine of polygamy, either publicly or privately. How then did the

¹⁰⁸ Abstract, 129.

¹⁰⁹ Ibid., 323.

¹¹⁰ Ibid., 111.

¹¹¹ Ibid., 302.

¹¹² Ibid., 303.

¹¹³ Ibid.

¹¹⁴ Ibid., 51.

doctrine become an issue in the Temple Lot Case?

It appears that Brigham Young (of the LDS Church in Utah) "revealed" the revelation of polygamy at the General Conference of the LDS Church in Salt Lake City, Utah, in 1852.¹¹⁵ Supposedly, the revelation was given to Joseph Smith Jr. on 12 July 1843, almost eleven months before his death. In addition, the "revelation" had not been brought before any Quorum of the Church, or membership of the Church for approval during Joseph Smith Jr.'s life.¹¹⁶ Its first presentation to the public occurred at the LDS Conference in 1852. Thus, this did not follow the law of the primitive Church.

Another oddity concerning the "revelation" of polygamy included the manner of becoming the law of the LDS Church. As previously mentioned, before a purported revelation may become law it must first pass the three leadership Quorums and then be presented to the general membership for the approval/disapproval of the revelation.¹¹⁷ However, Jack H. Carter, a former member of the LDS Church and witness for plaintiff, stated that "the manner of doing business under the leadership of Joseph Smith [Jr.] and that of Brigham Young were not the same. . . . Joseph Smith [Jr.] never tried to take the agency from a man in regard to elections."¹¹⁸ Concerning the "revelation" on polygamy, John H. Carter further testified, "the revelation was made to the people and forced upon them."¹¹⁹ Clearly, this was not the procedure used in the primitive Church.¹²⁰

Finally, it appears that the LDS Church totally committed itself to the change in doctrine from monogamous to polygamous marriage in 1876. Prior to this time, the 1835 edition of the Doctrine and Covenants (canonized and codified revelations from the Church prophet) was in effect.¹²¹ Section 101 of the Doctrine and Covenants provided, in part, that:

Marriage should be celebrated with prayer and thanksgiving; and at the solemnization, the persons to be married, standing together, the man on the right, and the woman on the left, shall be addressed, by the person officiating, as he shall be directed by the Holy Spirit: and if there be no legal objections, he shall say, calling each by their names: "You both mutually agree to be each other's companion, husband and wife, observing the legal rights belonging to this condition: that is, **keeping yourselves wholly for each other, and from all others during your lives.**" And when they have answered "Yes," he shall pronounce them "husband and wife" in the name of the Lord Jesus Christ, and by virtue of the laws of the country and authority vested in him: "may God add his blessings and keep you to fulfill your covenants from henceforth and forever. Amen." (bold emphasis added)¹²²

Despite there having been no proper vote on the polygamous revelation, the LDS Church deleted Section 101 from their Doctrine and Covenants in 1876 and in lieu thereof inserted the "revelation" on polygamy.¹²³ When questioned about this event, Woodruff Wilson, president of the LDS Church, stated: "I do not know why it was done. It was done by the authority of

¹¹⁵ Abstract, 322.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 50.

¹¹⁸ Ibid., 183.

¹¹⁹ Ibid., 182.

¹²⁰ Ibid., 50.

¹²¹ Doctrine and Covenants Section 101.

¹²² Abstract, 293.

¹²³ Ibid., 309.

whoever presided over the Church, I suppose. Brigham Young was the President then.”¹²⁴

There appear to have been other doctrines (e.g., blood atonement, Adam/God theory, avenging oaths) that were added and/or changed to the doctrine of the original Church by the LDS faction. However, none carried more emotional impact than did the issue of polygamy within the Church.

Legal Title

The Court finally reviewed claims of legal title almost as an afterthought to the issue of Church doctrine. Both sides claimed title to the Temple Lot through quitclaim deed that, as mentioned earlier, proved to be defective. However, based on the issue of Church doctrine (and the convenient use of the RLDS deed), the Court held that the property was vested in the RLDS Church as it was the true successor to the primitive Church.¹²⁵ Further, the Court held that the theory of “laches” did not extinguish the RLDS right to the property because the mob violence visited on them had prevented them from enforcing their rights. The Hedrickites appealed the decision.

Appellate Level

The Court of Appeals for the Eighth Circuit reversed the trial court on the theory of “laches.”¹²⁶ This court was unpersuaded that the plaintiff had been prevented from exercising its rights and found no excuse for the delay. Thus, the Temple Lot was awarded to the Church of Christ (Hedrickites). The RLDS Church filed a motion for rehearing. This motion was denied.¹²⁷ Further, the Court found that to award title to the RLDS Church would put a cloud of title on a large part of the land in Jackson County. This the Court refused to do. On receipt of the denial, the RLDS Church applied for writ certiorari to the United States Supreme Court. This application was also denied.¹²⁸ This left the Temple Lot in the possession of the Church of Christ (Hedrickites).

Conclusion

As with other political trials, the trial of the Temple Lot Case did not settle what was intended, that is, settle the title dispute to the Temple Lot. Instead, the bottom line was that status quo would be maintained. It is somewhat ironic that the parties to the suit, through a convoluted course of action, got exactly what they wanted. The RLDS Church was declared the true successor to the primitive Church (based on points of doctrine and practice of same) and the Church of Christ was awarded the property that was coveted by all factions of primitive Church. The LDS Church, for its part, received another chance to do legal battle with the RLDS Church (in 1880, the title to the Kirtland Temple, located in Ohio, was awarded to the RLDS Church by the Court of Common Pleas, Lake County, Ohio.) Despite the efforts for full adjudication, the war of words still continues among those involved in the suit. ◀

¹²⁴ Abstract, 309.

¹²⁵ RLDS vs. Church of Christ, 60 F., 957.

¹²⁶ Ibid., 70 F., 179.

¹²⁷ Ibid., 71 F., 250.

¹²⁸ Ibid., 163 U.S., 681.