

**BRIGHAM YOUNG sworn:** With regard to Francis M. Higbee, at the time that is spoken of I stopped opposite Mr. Law's store; we had been conversing with Dr. Bennett. When I came into the room Francis Higbee rather recoiled and wished to withdraw; he went out and sat upon a pile of wood. He said, it is all true; I am sorry for it; I wish it had never happened. I understood Bennett who related some of the circumstances, he cried and begged of us to forgive him, and said if he could be permitted to stay in the city as a private individual he should be happy; that was about what he said. "It is true, I am sorry for it, and I wish it had never been so," as we came up. Dr. Bennett, Mr. Higbee, and Mr. Smith had been talking about it. I have not mentioned it before. I knew of the whole affair; it was on the 4th of July, or a few days after; it was shortly after I came from England. I was in the city council when Mr. Higbee said all was settled.

**Cross-examined:** I have heard Dr. Bennett say all these things were facts; he acknowledged that Higbee had the —, and that he doctored him; he acknowledged that, and a great deal more.

I will make one statement. In our conversation with Dr. Bennett, I told him that one charge was seducing young women, and leading young men into difficulty, and he admitted it; he said if he had let young men and women alone it would have been better for him.

**SIDNEY RIGDON sworn:** In relation to the matters before the court I am unacquainted with; I was sick at the time, but I have heard them talked of back and fro.

**Cross-examined:** I recollect Joseph Smith came to me with a complaint against Higbee and Bennett, and made affidavit that it was true; I have the affidavit in my house. I went to see Higbee on last Saturday, and found him at Mr. Morrison's, where he was waiting for a steam boat. I endeavored to prevail on him to relinquish his undertaking; he said he had no character in Nauvoo, and therefore he had none to lose. I tried to convince him that he had a character, and might be looked upon with respect; but he flatly contradicted me and said he had none, and that was the reason why he persecuted Joseph Smith; as he had no character he did not care what he did; he had nothing to lose by it. That was the substance of our conversation.

**HYRUM SMITH sworn:** I recollect a settlement of difficulties between Francis M. Higbee and my brother Joseph, about which some of the court may recollect. I recollect Dr. Bennett asking forgiveness of the lodge when there were about sixty present. Francis M. Higbee acknowledged that it was the truth, and that he was sorry, and had been a thousand times; he acknowledged his connexion with the woman on the hill; I did think he was with Dr. Bennett at the time.

The statement of Dr. Bennett was, that he was guilty; he was sorry and asked forgiveness; he said he had seduced six or seven; he acknowledged it, and said if he was forgiven he would not be guilty any more. Francis said he knew it was true; he was sorry and had been a hundred times. The very things that we had challenged him with he acknowledged. I told Francis that it had better be settled; he said Joseph had accused him, and if his character was gone all was gone; he said he would settle it, and they went into the room. He did not deny any charge; he said he was sorry, that he wanted it buried, and it was agreed to do so. Francis did not say anything about his sickness, but Dr. Bennett made those observations to him—that he had doctored him in the time of his sickness.

**Cross-examined:** I asked Francis if he did not tell Dr. Bennett that he had seduced a girl? He replied, "I told Dr. Bennett that I did seduce her, but I tell you I never did it; I told him so for my own notion of things." I do not recollect of him saying that he had got a bad disorder with the French girl; he said he should not have been seduced if it had not been for Dr. Bennett. When charged with them, Francis said they were true, that they were alleged a hundred times; he said, "I will alter, I will save my character." I have never heard from Dr. Joseph anything about his character; Joseph did not accuse him of anything before the police; he said Francis had better take care. Francis was a little dissatisfied, but that difference was settled; I was present. He said he would not receive anything again from abroad; he would not take any steps by hearsay; he would come to him and tell him. There were several present when this took place.

**PORTER ROCKWELL sworn:** He recollected the conversation, but not very distinctly; but he did recollect that Francis M. Higbee acknowledged to Joseph Smith that he was guilty of the charges preferred against him.

Court adjourned for one hour and a half.

Court met.

**MR. WHELOCK sworn:** With regard to this case I know nothing, but through a circumstance which occurred at Nashville. Elder James Blakeslee came to my house to preach; he preached and was upholding the authorities of the church very much; he came over here and apostatized the same day. I then came over and went to see; I asked him why he had changed his mind so quick? He said he had seen affidavits of the guilt of Mr. Smith; he told me Mr. Higbee was going about to the different conferences. I told him I thought he had better send some one else; his conduct was not the best, and I know of circumstances that were not right. Once I was a mate on a steam boat, and Higbee was clerk; we had not much cabin; we had some females on board. I and another had given up our room to some ladies for the night; it was my watch, and I went into the cabin for my buffalo robe about one

o'clock in the night, when I saw him leaning over the berth where one of the ladies slept. This was in the night, and he had no business there; no gentleman had any right there. I gave up my berth to the ladies, and I felt indignant at such conduct; his conduct towards the lady passengers was unbecoming, and particularly in one who professes so much virtue as he does now.

**JOEL S. MILES sworn:** I have seen Francis M. Higbee go into rooms with females, but what their intentions were I did not know. I might have seen him two or three times; I think he has done that which is not right. I should judge from conversations with him that that was the case; I presume he has a good many times; I might recollect twenty times; he has frequently told me things of that kind. It is a private case, to be sure. He has told me that he had commenced an action against Joseph Smith for slander. I met Francis today, I asked him about the fuss, when he said he had got Mr. Smith up for slander; he said he should not come here, but did not say why. I recollect the time that he was sick, when Dr. Bennett attended him; I went to see him nearly every day. I understood Mr. Higbee to say that he was prosecuting Mr. Smith for slander, and that he was up before the municipal court. He told me he supposed I was wanted to prove that he was a thief, whore-master, and everything else.

**HENRY G. SHERWOOD sworn:** I have several times had conversations with Higbee; I recollect that near two years ago there was a fuss about John C. Bennett's spiritual wife system before the high council. I recollect a French woman coming up from Warsaw, and that Francis M. Higbee had medical assistance. Dr. Bennett attended him. Joseph Smith administered unto him, but it was irksome. Higbee assented that it was so; he did not contradict it; he promised to reform; he would do better; he would do so no more.

**HEBER C. KIMBALL sworn:** I think it is near two years since I had a conversation with Francis M. Higbee. He expressed himself indignant at some things; he expressed himself that he was sorry; he would live a new life. He never would say a word against President Joseph Smith; he had an inclination to write that what he had published was false. I exhorted him to go and recall what he had said. Afterwards saw him in Cincinnati, when he promised by every thing sacred that he would come home, reform, and then go and publish this doctrine, for it was true.

He said he had taken a course that was wrong towards President Smith, and was sorry for it. He said he would study at Cincinnati, for his character was ruined here. When we were in Quincy, I went over to Missouri, and exhorted him to alter his conduct. The last time I conversed with him, he said, "If I had taken your counsel, I should now have been a man looked on with respect;" he said he was not connected with the people that opposed President Smith and never would; he much regretted the course he had taken.

**JOSEPH SMITH:** The statement I made out against Francis M. Higbee I have proved to be facts, and therefore it is not slander. I have testified boldly, and have brought witnessess to prove him to be an adulterer and a vicious man. I did not do it until he began to use his evil influence against me. If I had been to blame, and he had got the least chance, he would have been here; he knows I am here, and all know that they have nothing against me. I have proved all that I ever testified; the court would be bound to discharge me on account of having proved it.

There are very few lawyers who know the great principle of the habeas corpus act; ask a lawyer, and he does not know but that he has got to go to some judge. The U. S. district judge (Pope) has been one of the supreme judges of the State; his decision is that it should be as much in the power of the simple magistrate as of the greatest judge; hence governors and supreme judges all know that I am correct.

A simple magistrate should have the right; "the right of habeas corpus shall not be denied," it does not say by a governor or judge, who then does it mean? All the authorities. All judges know that it is a fact. If you hold the office of a magistrate, and you are sworn to keep inviolate the Constitution of the United States, you are sworn to fulfil that part which says that you shall not refuse the privilege of the habeas corpus to any one. I have only to open Blackstone, or the Bible, and then I know where powers are. I never said anything about the Higbees, or the Laws, or the Fosters, but what is strictly true. I have been placed in peculiar circumstances.

The only sin I ever committed was in exercising sympathy, and covering up their iniquities, on their solemn promises to reform; and of this I am ashamed, and never will do so again.

After hearing the foregoing evidence in support of said petition, it is considered and ordained by the court:

1st, That the said Joseph Smith, senior, be discharged from the said arrest and imprisonment complained of in said petition, on the illegality of the writ upon which he was arrested, as well as upon the writ of the case, and that he go hence without day.

2nd, Francis M. Higbee's character having been so fully shown as infamous, the court is convinced that this suit was instituted through malice, private pique, and corruption, and ought not to be countenanced; and it is ordained by the court that said Francis M. Higbee pay the costs.

In testimony whereof I hereunto set my hand and affix the seal of said court at the city of Nauvoo, this 8th day of May, 1844.

WILLARD RICHARDS, Clerk.

I copy the following from the Neighbor of this date:

"Hurrah for the General!!—The following, which we extract from the *St. Louis Organ*, shows how the public mind is turning, and what their feelings are in regard to the Prophet, his views, and theirs also in regard to the Presidency.

*Forbear awhile—we'll hear a little more.* The matter is now settled with Mr. Clay, Tyler, and Van Buren! Let Mr. Clay return at once from his political perambulation in the South, Mr. Tyler abandon his hopes of re-election by aid of the 'immediate annexation' of Texas, and let Mr. Van Buren be quiet at Kinderhook that he may watch the operations of the 'sober second thought' of the people!

General Joseph Smith, the acknowledged modern Prophet, has got them all in the rear; and from the common mode of testing the success of candidates for the Presidency, to wit, by steamboat elections—he, Smith, will beat all the other aspirants to that office, two to one. We learn from the polls of the steamboat Osprey, on her last trip to this city, that the votes stood for

General Joseph Smith	29	gents.	and	5	ladies.
Henry Clay	16	"	"	4	"
Martin Van Buren	7	"	"	0	"

Attended theatre in the evening.

Thursday, 9.—A court martial was held in my office for the trial of Major General Wilson Law, on a charge of ungentlemanly and unofficer-like conduct. Present: Generals Hyrum Smith, Charles G. Rich, Lyman Wight, George Miller, and Albert P. Rockwood; Colonels John Scott and Hosea Stout; Judge Advocate, John Taylor; and Secretary, Thomas Bullock. The charge was sustained, and Wilson Law cashiered.

Evening attended theatre and saw "Damon and Pythias," and the "Idiot Witness," performed.

Elders Wilford Woodruff and George A. Smith called upon me this morning, and said they were ready to start on their mission to attend the conferences appointed throughout the north of Illinois, Indiana, and Michigan. I blessed them in the name of the Lord, and told them to go and they should prosper and always prosper. They left in company with Elders Jedediah M. Grant and Ezra Thayer.

Friday, 10.—Rode out after breakfast to the prairie to sell some land to some brethren.

The court martial was held in the mayor's office on the charge against Robert D. Foster, surgeon general, for unbecoming and unofficer-like conduct, &c. Brigadier General George Miller, presiding. The charges were sustained.

A prospectus of the Nauvoo Expositor was distributed among the people by the apostates. The jury of Lee county, Illinois, awarded \$40 damages and the costs against Joseph H. Reynolds and Harmon T. Wilson for illegal imprisonment and abuse which I suffered from them last June in that county.

Saturday, 11.—At 10 a.m. I attended city council, and staid till half-past 11, but there not being a quorum, adjourned until next regular session. At one p.m. at my office, and had a conversation with Mr. Lyne on the theatre; and at 6 p.m. attended prayer meeting; John P. Greene and Sidney Rigdon present. Several showers of rain during the day. The Nauvoo Legion had a company muster.

Sunday, 12.—At 10 a.m. I preached at the stand. The following brief synopsis of my discourse was reported by my clerk, Thomas Bullock:

"The Savior has the words of eternal life, nothing else can profit us; there is no salvation in believing an evil report against our neighbor. I advise all to go on to perfection, and search deeper and deeper into the mysteries of godliness. A man can do nothing for himself unless God direct him in the right way, and the priesthood is revealed for that purpose.

The last time I spoke on this stand it was on the resurrection of the dead, when I promised to continue my remarks upon that subject; I still feel a desire to say something on this subject. Let us this very day begin anew, and now say, with all our hearts, we will forsake our sins and be righteous. I shall read the 24th chap. of Matthew, and give it a literal rendering and reading; and when it is rightly understood it will be edifying. [He then read and translated it from the German.]

I thought the very oddity of its rendering would be edifying anyhow. *'And it will be preached be, the gospel of the kingdom in the whole world, to a witness over all people, and then will the end come.'* I will now read it in German (which he did, and many Germans who were present said he translated it correctly.)

The Savior said when those tribulations should take place, it should be committed to a man, who should be a witness over the whole world; the keys of knowledge, power, and revelations should be revealed to a witness who should hold the testimony to the world. It has always been my province to dig up hidden mysteries—new things—for my hearers. Just at the time when some men think that I have no right to the keys of the priesthood, just at that time I have the greatest right. The Germans are an exalted people; the old German translators are the most correct, most honest of any of the translators, and therefore I get testimony to bear me out in the revelations that I have preached for the last fourteen years. The old German, Latin, Greek and Hebrew translations all say it is true; they cannot be impeached, and therefore I am in good company.

All the testimony is, that the Lord in the last days would commit the keys of the priesthood to a witness over all people. Has the gospel of the kingdom commenced in the last days? and will God take it from the man until he takes him himself? I have read it precisely

as the words flowed from the lips of Jesus Christ. John the revelator saw an angel flying through the midst of heaven, having the everlasting gospel to preach unto them that dwell on the earth.

The Scripture is ready to be fulfilled when great wars, famines, pestilence, great distress, judgments, &c., are ready to be poured out on the inhabitants of the earth. John saw the angel having the holy priesthood who should preach the everlasting gospel to all nations. God had an angel—a special messenger—ordained and prepared for that purpose in the last days. Woel woel be to that man or set of men who lift up their hands against God and his witness in these last days, for they shall deceive almost the very chosen ones.

My enemies say that I have been a true prophet; why, I had rather be a fallen true prophet than a false prophet. When a man goes about prophesying, and commands men to obey his teachings, he must be either a true or false prophet; false prophets always arise to oppose the true prophets, and they will prophesy so very near the truth that they will deceive almost the very chosen ones.

The doctrine of eternal judgments belongs to the first principles of the gospel in the last days. In relation to the kingdom of God, the devil always sets up his kingdom at the very same time in opposition to God. Every man who has a calling to minister to the inhabitants of the world, was ordained to that very purpose in the Grand Council of Heaven before this world was. I suppose that I was ordained to this very office in that Grand Council. It is the testimony that I want that I am God's servant and this people his people. The Ancient Prophets declared in the last days the God of Heaven should set up a kingdom which should never be destroyed, nor left to other people, and the very time that was calculated on, this people were struggling to bring it out. He that arms himself with gun, sword, or pistol, except in the defence of truth, will sometime be sorry for it. I never carry any weapon with me bigger than my penknife; when I was dragged before the cannon and muskets in Missouri I was unarmed. God will always protect me until my mission is fulfilled.

I calculate to be one of the instruments of setting up the kingdom of Daniel by the word of the Lord, and I intend to lay a foundation that will revolutionize the whole world. I once offered my life to the Missouri mob as a sacrifice for my people, and here I am. It will not be by sword or gun that this kingdom will roll on; the power of truth is such that all nations will be under the necessity of obeying the gospel. The prediction is that army will be against army; it may be that the Saints will have to beat their plows into swords, for it will not do for men to sit down and see their women and children destroyed patiently.

My text is on the resurrection of the dead, which you will find in the 14th chap. of John, 'In my Father's house are many mansions.' It should be—'In my Father's kingdom are many kingdoms,' in order that ye may be heirs of God and joint heirs with me. I do not believe the Methodist doctrine of sending honest men and noble minded men to hell, along with the murderer and adulterer; they may hurl all their hell and fiery billows upon me, for they will roll off me as fast they come on. But I have an order of things, to save the poor fellows at any rate, and get them saved; for I will send men to preach to them in prison, and save them if I can.

There are mansions for those who obey a celestial law, and there are other mansions for those who come short of that law; every man in his own order. There is baptism, &c., for those to exercise who are alive, and baptism for the dead who died without the knowledge of the gospel.

I am going on in my progress for eternal life. It is not only necessary that you should be baptized for your dead, but you will have to go through all the ordinances for them, same as you have gone through, to save yourselves. There will be 144,000 saviors on Mount Zion, and with them an innumerable host that no man can number. Oh! I beseech you to go forward, go forward, and make your calling and your election sure; and if any man preach any other gospel than that which I have preached, he shall be cursed, and some of you who now hear me shall see it and know that I testify the truth concerning them.

In regard to the law of the priesthood, there should be a place where all nations shall come up from time to time to receive their endowments; and the Lord has said this shall be the place for the baptism for the dead. Every man that has been baptized and belongs to the kingdom, has a right to be baptized for those who are gone before; and, as soon as the law of the gospel is obeyed here by their friends who act as proxy for them, the Lord has administrators there to set them free. A man may act as proxy for his own relatives; the ordinances of the gospel which were laid out before the foundation of the world have been thus fulfilled by them, and we may be baptized for those whom we have much friendship for, but it must be first revealed to the man of God lest we should run too far. 'As in Adam all die, so in Christ shall all be made alive;' all shall be raised from the dead. The Lamb of God hath brought to pass the resurrection, so that all shall rise from the dead.

God Almighty himself dwells in eternal fire; flesh and blood cannot go there, for all corruption is devoured by the fire. Our God is a consuming fire. When our flesh is quickened by the Spirit, there will be no blood in the tabernacle. Some dwell in higher glory than others.

Those who have done wrong always have that wrong gnawing them. Immortality dwells in everlasting burnings. I will from time to