

## Esquire James Weston Woods: Legal Counsel to Joseph Smith

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Although each life has a story to tell, few lives are remembered with the passage of time. The stories of common folk of yesteryear and even their noted leaders all too soon become mere entries in vital registries. Such a state of skeletal remembrance is fast approaching the life of Esquire James Weston Woods, a prominent attorney during the 1840s in Keokuk and Burlington, Iowa. My reason for wanting to breathe life into his memory has little to do with his stellar courtroom persona or brilliant legal arguments—for he had none. He was neither “a deeply learned lawyer or finished scholar.”<sup>1</sup> His legal prowess on the Iowa side of the Mississippi was adequate at best. It is little wonder, then, that Iowa historians have failed to champion his memory.<sup>2</sup>

Why should Latter-day Saint historians take notice of James Woods? The answer is found in the fact that he provided legal counsel to Joseph Smith immediately preceding the martyrdom. Although Woods was not an adherent of the Latter-day Saint faith, he fulfilled his responsibilities as counselor and advocate for Joseph and his brother Hyrum Smith at a time when Almon W. Babbitt, the presiding elder of the Ramus Branch and former president of the Kirtland Stake, refused the Prophet’s request for legal assistance. “You are too late,” Babbitt was said to have replied. “I am already engaged on the other side.”<sup>3</sup>

In contrast to Babbitt, thirty-four-year-old James Woods responded immediately and in a professional manner that exceeded his previous best. His importance as legal counsel in late June 1844 should not be understated or overlooked in the annals of Mormon history. Historical documentation

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confirms that in addition to serving as counsel for Joseph Smith, he also published an account of his legal work conducted in behalf of the Mormons. The account, which appeared in the *Times and Seasons*, dictated a detailed reminiscence of the events that led to the Smiths' martyrdom, and Woods maintained an unabated fascination with the Prophet and the Church throughout his life. The retelling of Woods' life, with a focus on his Mormon connections in 1844, elevates his importance and prevents one of Iowa's prominent attorneys from being lost in a historical abyss.

### Life in Iowa

Woods, a native New Englander, was born in 1810 near Boston, Massachusetts. By 1824, he was residing in Virginia and studying law.<sup>4</sup> Three years later, he was admitted to the bar and opened a law practice. After six years of struggling to keep his practice afloat in the genteel Southern society, he bid farewell to tenuous familial ties and headed to Iowa territory on the American frontier.<sup>5</sup> By 1833, at the close of the Black Hawk Indian War, he had made his way to the newly platted community of Burlington situated on the west side of the Mississippi. Finding few cabins and even fewer inhabitants, Woods frequently conducted business with friends and acquaintances on the Illinois side of the river.<sup>6</sup>

In Commerce, Illinois, a friendship with legal contemporary Daniel H. Wells (later a Nauvoo justice of the peace) and his younger sister Catharine was entertained. James was married to Catharine on 14 August 1836 by Charles Robinson, Daniel and Catharine's stepfather.<sup>7</sup> The newlyweds resided temporarily in Hancock County, Illinois, on property located southeast of Commerce.<sup>8</sup> When seeking a permanent home, however, James and Catharine chose Lee County, Iowa.<sup>9</sup> Although their property in Hancock County was retained, the fledgling community of Keokuk became their settlement of choice.

For many, including in-laws in Commerce, the choice was fraught with flaws. Only a few unschooled adventurers, trappers, and traders, who had intermarried with Sac and Fox Indians, lingered in what was termed "half-breed lands."<sup>10</sup> In-laws argued that land speculators—who viewed a gun, a blanket, a pony, or a few quarts of whisky as fair trade for land dotting the Mississippi—were not much better than the trappers.<sup>11</sup> Rat Row was the name given to Keokuk's five hewn-log structures,<sup>12</sup> and to residents in Commerce this name connoted vermin infestation and designated the caliber of the fledgling community's populace. All in Commerce agreed that unauthorized surveys, false boundary claims, and conflicts stemming from sloppy recording of deeds would not necessarily guarantee that property pur-

chased would be uncontested.<sup>13</sup>

This rationale had merit but little influence on Woods. He and his wife recognized that problems would confront them in Keokuk, but they refused to abandon their dream of an Iowa home. By June 1837, when boastful advertisements announced the sale of public lots in Keokuk—the Gate City—Woods was among the first to make an offer.<sup>14</sup> He settled on his land and attempted to create a permanent niche in Iowan society by pursuing his legal interests. On 29 November 1838, he was among twenty lawyers admitted to the bar at the first term of the territorial supreme court. Woods even argued the first case presented before that August body. By touting the importance of the case, his legal fame spread beyond Iowa into Illinois. Almost overnight, Woods, the typical pioneer lawyer, was spoken of as “suited to the times, [and] had a wide practice.”<sup>15</sup>

“I was a good deal in Illinois and I had practice in what they call the Military tract and used to attend court from Pike County, Illinois Territory, as far north as they could go, where there were any inhabitants, up to Fulton County and Bureau,” recalled Woods. “I was in Illinois perhaps half the time” for the next decade.<sup>16</sup> Nowhere in Illinois was he better known than at the Hancock County Circuit Court held in Carthage, Illinois. Like clockwork, during the third week in May and October each year, he presented cases at the scheduled sessions of the county court.<sup>17</sup> Of his court appearances, it was written, “He ought to have been an actor, a comedian; he would doubtless have attained eminence in that line, for he had a keen sense of the ludicrous, and was sometimes insensibly ludicrous in himself.” Nineteenth-century legal biographer Edward H. Stiles recalled that Woods “could tell a good story, [and] put on a long face while doing it.” Some claimed his convivial good nature was due to habitual drinking, but most agreed that without a bottle of whiskey in hand, he still told “stories that made the hearers laugh, joked with friends without offending them, and always wore a cheerful face.”<sup>18</sup>

Although Woods never displayed a brilliance or scholarly argument at the county court that won the applause of legal contemporaries, defendants viewed him as “shrewd and of good judgment.” To them he was “immensely popular by reason of his free and easy ways, his good fellowship, his perennial humor and unbounded generosity.” Or, as Stiles wrote, “He was a good mixer; a hale fellow well met . . . [and] always good company everywhere and under all circumstances.”<sup>19</sup> These qualities enabled Woods to meet legal opponents on “friendly ground” and reach amicable decisions for all concerned. Word of his decisions and a tested confidence that he was faithful to his clients and “reliable and true to his friends” increased his reputation on both sides of the Mississippi.<sup>20</sup>

## Legal Counsel for Joseph Smith

Having distinguished himself as a lawyer of some ability, it is not surprising that Joseph Smith selected Woods as his legal counsel in late June 1844.<sup>21</sup> That Woods opted to accept and function as defense counsel for the Mormon leader is well documented. Eighteen entries in the *History of the Church* mention him by name. On 21 June 1844, it was recorded, "Col. Brewer and lady arrived at the Mansion about 9 p.m. Also James W. Woods, Esq., my attorney from Burlington."<sup>22</sup> The next day, Woods along with Lucien Woodworth carried a letter to Carthage from Joseph Smith to Governor Ford, inviting the governor to come to Nauvoo to investigate conditions. The governor's response was less than encouraging. He not only rejected the invitation but ordered the Mormon leaders that they must submit to his authority and come to Carthage to stand trial. If they refused to do so, the state militia would enforce the order.<sup>23</sup> Such a proposition left little choice, and probably at the recommendation of Woods, Joseph and Hyrum consented to Ford's request. In the early morning hours of 24 June 1844, Woods accompanied Joseph and Hyrum Smith and a contingent of Mormons and started for Carthage. En route, the party was met by Captain James Dunn and sixty mounted militia who demanded the Mormons surrender all the state arms in possession of the Nauvoo Legion. As commander of the legion, Joseph returned to Nauvoo with Captain Dunn to ensure compliance, while Woods continued his journey to Carthage to speak to Governor Ford on behalf of the Church leaders.<sup>24</sup>

Later that day, Woods wrote a letter to Joseph Smith from Carthage. The letter is included in the *History of the Church*.<sup>25</sup> Also included is Woods' objection to a court adjournment on 25 June 1844.<sup>26</sup> On 26 June, Joseph sent a letter to Woods and Hugh T. Reid, an attorney from Iowa who had come to Carthage at the request of Woods. The letter read in part, "We wish to see you without delay."<sup>27</sup> The following day, 27 June, Woods arrived in Carthage and reported to Joseph that "another consultation of the officers had taken place, and the former orders of the Governor for marching to Nauvoo with the whole army were countermanded."<sup>28</sup> At this point, Joseph instructed Woods to leave Carthage and return to Nauvoo.<sup>29</sup>

These terse accounts establish that Woods was present in a professional capacity with Joseph and his brother Hyrum Smith the last week of June. Additional references place him in the funeral procession from Carthage to Nauvoo with Willard Richards and Samuel Smith on 28 June<sup>30</sup> and with widow Emma Smith heading to Carthage to secure letters of administration for Joseph's estate on 17 July.<sup>31</sup> Although these brief accounts give evidence

regarding his legal role, they leave historians wanting more.

Significantly, a lengthy statement by Woods about the events of 21–27 June appeared in the 1 July 1844 issue of the *Times and Seasons*. “At the request of the friends of Joseph and Hyrum Smith, I have consented to give a statement of such matters as I had a knowledge of in relation to their murder at Carthage, and what occurred under my observation,” Woods reported. There then follows a detailed description of the events leading up to the martyrdom and Woods’ attempt to assist the Mormon prisoners in his capacity as legal counsel.<sup>32</sup> An anonymous contributor to the *Lee County Democrat* on 4 July 1844 (three days after Woods’ statement appeared in the *Times and Seasons*) wrote, “Mr. J. W. Woods is an attorney, of Burlington, in this territory. . . . His word may be relied on. . . . I hope the citizens of these United States will give [his] statements of this horrid affair, that confidence and calm deliberation which the case solemnly demands.”<sup>33</sup>

Woods’ statement is historically significant. For example, his testimony clearly supports Mormon claims that Governor Ford promised the Mormon leaders protection if they would submit to state authority and be tried in Carthage. “I had an interview with Gov. Ford, assuring him as to the quiet of Nauvoo, and that Smith and his friends were ready to obey the laws,” he wrote. “Gov. Ford pledged his word that if Gen. Smith would come to Carthage, he should by him be protected, with such of his friends as might accompany him, and that I as his counsel should have protection, in defending Smith.”<sup>34</sup> In addition, there can be no question that Woods labored dutifully in behalf of the Mormon prisoners during their 24–27 June incarceration. During this time, he arranged appointments, conducted numerous interviews, negotiated with the court, discussed defense strategy, drafted documents and reports, and saw to the prisoners’ personal comfort and safety.<sup>35</sup>

### Reflections in Later Years

In 1882, legal biographer Edward H. Stiles interviewed Woods about Woods’ early years in Iowa. The interview provided Woods with the opportunity to reflect and reminisce once again about the tragic events of late June 1844. Stiles induced him to “come from his home in Hardin County, Iowa, to Ottumwa, and tell me what he knew of the olden times. I comfortably quartered him at a hotel where he remained for some two or three weeks, and where I frequently visited him with a stenographer who took down the conversations that occurred between us.”<sup>36</sup> “His memory, especially in one so old, was remarkable. . . . I felt a sort of veneration for him.”<sup>37</sup>

Woods’ story line follows the same chronological order as his published

July 1844 *Times and Seasons* statement. For example, he remembers that he was “standing at the wharf at Burlington” when he received a note from Joseph Smith requesting his legal counsel. He noted that he immediately jumped “aboard [a boat] and went down” to Nauvoo.<sup>38</sup> His reflections of the arrival of Joseph Smith’s party at Carthage late in the evening of 24 June 1844 collaborate with earlier reports. “I was there at the time, in an upper room [of the Hamilton Hotel] fronting the street, talking with the Governor,” he said, when “Captain Denin (or Dunn) came up to the room where we were and reported. In a short time about five hundred of the soldiers encamped on the public square came rushing and clamoring for a sight of Joe and Hyrum Smith. The Governor promised that if they would retire to their quarters peaceably he would introduce them to the Smiths in the morning.”<sup>39</sup>

The following day, when the prisoners were paraded before the militia, Woods believed his presence helped protect them. “There were at least a hundred men loaded to shoot Joe Smith, but I was on his right and he was on Captain Denin’s [Dunn’s] right. I was between Smith and the militia.” He then continued, “I knew almost every man in the crowd, for I had been practicing law in those counties for years. They told me afterwards that but for me Joe would have never passed through the lines alive; they did not want to hurt me; I could name nearly every one of them. I was merely the attorney.”<sup>40</sup>

Significantly, Woods believed Joseph and Hyrum would be safe as long as Governor Ford remained in Carthage. On the morning of 27 June, when he learned that “the Governor signified his intention of going to Nauvoo to search for counterfeit money,” Woods objected. “I was satisfied that as long as the Governor remained in Carthage the Smiths would be safe, and that as soon as he left there would be no safety. I so told him and asked him for a guard. He discharged the troops from McDonnough County and the other outside counties, and gave me the ‘Carthage Greys’ as a guard.”<sup>41</sup>

Woods also remembered the last time he met with the Mormon leader. “I went to see Joe in the jail and told him what I had done and that it was the best I could do. He wanted me to go to Nauvoo and have the Mormons there make preparations to receive the Governor. . . . The last words Joseph Smith said to me were, ‘Woods, I want you to go and prepare my people, for I will never live to see another sun. They have determined to murder me, and I never expect to see you again. I have no doubt you have done the best you could for me.’”<sup>42</sup> Clearly, his association with Joseph Smith left an indelible impression upon him. In his reminiscence, he said he believed Joseph Smith “proved to be a prophet, for he did not live to see another sun.”<sup>43</sup>

Of the church that Joseph had founded, Woods said, "I think I can say from close personal observation that the rank and file of them were religious enthusiasts who truly believed in this newly revealed religion, and I think that among all the religions of the earth, that every religion is true to the followers who truly believe it."<sup>44</sup> As for the founder of the Latter-day Saint faith, he stated, "I do not think Joe Smith was at heart a bad or wicked man, and you could see from his face that he was not naturally an unkind one." "But," he noted, "he was a born ruler and when he made up his mind, they all had to obey. He was, of course, an uncultured man that had never had the advantages of much education, but from somewhere he had inherited great ability. This, it appears to me, is shown by the fact that, claiming to be a prophet, he founded a new creed or sect which has survived the contempt and onslaughts of the whole world and spread itself nearly all over it."<sup>45</sup>

## Conclusion

The statements and reminiscence of James Weston Woods, a respected nineteenth-century Iowan, deserve consideration by historians of Mormonism. Rationale suggestions that his obscure position in Mormon records be maintained is not efficacious. He answered Joseph Smith's urgent request to represent the Mormon defendants in June 1844 and proved himself a competent legal counsel. Woods wrote an untarnished 1844 statement of the events that led to the martyrdom and later expressed details of those events in his advanced years. While his personal memory was not without flaw, his statements and reflections must not be discarded. To do so would turn an eyewitness into a mere skeletal remembrance in vital registries.

## Notes

1. Edward H. Stiles, *Recollections and Sketches of Notable Lawyers and Public Men of Early Iowa: Belonging to the First and Second Generations, with Anecdotes and Incidents Illustrative of the Times* (Des Moines, Iowa: The Homestead Publishing Company, 1916), 260.

2. Iowa historian Doug Atterborg found that Whigs residing in the Des Moines Valley took notice of James Woods: "Jim Woods of Burlington appeared on the Half Breed Tract as the herald and forerunner of every election. It was always and every where understood that Jim Woods was the 'man that come round to tell the people how to vote.' At that day nobody dreamed that there could be a meaner man found for the purpose." *Des Moines Valley Whig*, 1856, col. 4, p. 4.

3. Babbitt was a graduate of the state university at Cincinnati, Ohio, and had legal licenses to practice law in six states. See Susan Easton Black, *Who's Who in the Doctrine and Covenants* (Salt Lake City: Bookcraft, 1997), 4. While incarcerated in Carthage Jail, Joseph had said to Patriarch John Smith to "tell Almon W. Babbitt I want him to come

and assist me as an attorney at my expected trial.” Joseph Smith, *History of the Church of Jesus Christ of Latter-day Saints*, ed. B. H. Roberts, 2nd ed. rev., 7 vols. (Salt Lake City: Deseret Book, 1971), 6:598, 600 (hereafter cited as *History of the Church*).

4. The Iowa Federal Census of 1850 lists Woods as being born in 1810 in Massachusetts. If the census is correct, he would have been age fourteen when he began studying law in Virginia.

5. Iowa became a state on 28 December 1846. Federal Writers' Project of the Works Progress Administration for the state of Iowa, comp., *Iowa, A Guide to the Hawkeye State* (New York: The Viking Press, 1941), 5.

6. After Black Hawk's defeat in 1832, Keokuk was recognized as the chief of the Sac and Fox Indians. *Iowa, Guide to the Hawkeye State*, 376.

7. Robinson signed the marriage certificate as a minister of the gospel. “Minister of the Gospel,” The Marriage Record, #113, Hancock County Courthouse, Carthage, Illinois. In the Iowa Federal Census of 1850, Woods was listed as a forty-year-old lawyer who was living in a home valued at \$2,500. His wife, Catherine Chapin Wells, was listed as being age thirty-three. They had four living children: Nehemiah (13), William (10), Eliza (8), and James (6).

8. See file on James W. Woods at the Lands and Records Office, Nauvoo, Illinois.

9. An act of the Territorial Legislature of Wisconsin, approved 7 December 1836, organized Lee County. Unfortunately, failure to clearly specify boundary lines in the act led to a reorganization of the county by the Territorial Legislature of Iowa, approved on 23 January 1839. *Portrait and Biographical Album of Lee County, Iowa, containing Full Page Portraits and Biographical Sketches of Prominent and Representative Citizens of the County, Together with Portraits and Biographies of all the Governors of Iowa, and of the Presidents of the United States* (Chicago: Chapman Brothers, 1888), 607.

10. In the treaty entered into at Washington on 4 August 1824 between the Sac and Fox Indians and the federal government, half-breeds had the right to occupy the land but could not convey rights to the land. Such rights were reserved for the United States government. See Mike Foley, “Lee County: Montrose—A Once-Proposed Mormon Temple,” Susan Easton Black and William G. Hartley, eds. *The Iowa Mormon Trail, Legacy of Faith and Courage* (Orem, Utah: Helix Publishing, 1997), 196.

11. In spring 1837, the community of Keokuk was platted by Isaac Galland (1790–1858), an agent of the New York Land Company. *Guide to Hawkeye State*, 376.

12. In 1831, the American Fur Company constructed a row of five log buildings. *History of Lee County, Iowa* 2 vols. (Chicago: The S. J. Clarke Publishing Company, 1914), 1:138.

13. An act of the Legislature of Wisconsin Territory, approved 16 January 1838, helped solve land disputes. *Portrait and Biographical Album of Lee County*, 607.

14. Advertisements attracted hopeful buyers from both sides of the river and from as far away as St. Louis. Although not all lots were sold that June, speculators took consolation in a corner lot that “sold for \$1,500, an indication that Keokuk's future was to be one of great prosperity.” *History of Lee County*, 1:138.

15. The case was from the Des Moines District Court. It was the first and only case argued before the court that year. Stiles, *Recollections and Sketches of Notable Lawyers*, 260, 569.

16. Stiles, *Recollections and Sketches of Notable Lawyers*, 264.

17. The first log courthouse was built in 1833 on the south side of the town square. The second courthouse in Carthage was built in the center of the square in 1839. See Marvin S. Hill and Dallin H. Oaks, *Carthage Conspiracy, The Trial of the Accused Assassins of Joseph Smith* (Urbana and Chicago: University of Illinois Press, 1979), 1–5.

18. Stiles, *Recollections and Sketches of Notable Lawyers*, 260, 570.
19. Stiles, *Recollections and Sketches of Notable Lawyers*, 261, 570.
20. Stiles, *Recollections and Sketches of Notable Lawyers*, 570.
21. Joseph had hoped to engage the services of Edward Johnstone, who had gone east. At the request of Woods, Joseph used the services of Hugh T. Reid (1811–1874) of Keokuk, a partner of Johnstone. Early Keokuk, Lee County, Iowa Marriage Records 1837–1851. Keokuk, Iowa, The Lee County Genealogical Society of Iowa, Keokuk Public Library 1966; *History of Lee County, Iowa* (Chicago: Western Historical Company, 1879), 543.
22. *History of the Church*, 6:525.
23. *History of the Church*, 6:537.
24. *History of the Church*, 6:554–55.
25. *History of the Church*, 6:559. In the letter, Woods reported that the governor assured him that the Mormon prisoners “can, with utmost safety, rely on his protection, and that you will have an impartial an investigation as could be expected by those opposed to you.”
26. *History of the Church*, 6:567.
27. *History of the Church*, 6:595.
28. *History of the Church*, 6:605.
29. *History of the Church*, 6:612.
30. *History of the Church*, 6:626.
31. *History of the Church*, 7:194.
32. James W. Woods statement, *Times and Seasons* 5, no. 12 (1 July 1844): 563–64.
33. *History of the Church*, 7:165.
34. Woods statement, *Times and Seasons*, 5:563.
35. Woods statement, *Times and Seasons*, 5:563–64.
36. Stiles, *Recollections and Sketches of Notable Lawyers*, 263. The interview was the last interview Woods gave. He died in Hardin, Iowa, in 1886.
37. Stiles, *Recollections and Sketches of Notable Lawyers*, 264. Stiles obtained from Woods additional historical information from personal correspondence.
38. Stiles, *Recollections and Sketches of Notable Lawyers*, 268.
39. Stiles, *Recollections and Sketches of Notable Lawyers*, 269.
40. Stiles, *Recollections and Sketches of Notable Lawyers*, 269.
41. Stiles, *Recollections and Sketches of Notable Lawyers*, 269.
42. Stiles, *Recollections and Sketches of Notable Lawyers*, 269–70.
43. Stiles, *Recollections and Sketches of Notable Lawyers*, 270.
44. Stiles, *Recollections and Sketches of Notable Lawyers*, 272.
45. Stiles, *Recollections and Sketches of Notable Lawyers*, 271–72.

