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## How Governor Thomas Ford's Background, Choices, and Actions Influenced the Martyrdom of Joseph Smith in Carthage Jail

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How Governor Thomas Ford's Background, Choices, and Actions  
Influenced the Martyrdom of Joseph Smith in Carthage Jail

Stuart Rulan Black

A thesis submitted to the faculty of  
Brigham Young University  
in partial fulfillment of the requirements for the degree of  
Master of Arts

Andrew H. Hedges, Chair  
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Religious Education  
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## ABSTRACT

### How Governor Thomas Ford's Background, Choices, and Actions Influenced the Martyrdom of Joseph Smith in Carthage Jail

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Religious Education, BYU  
Master of Arts

Thomas Ford was the governor of Illinois at the time of Joseph and Hyrum Smiths' martyrdoms in Carthage Jail in 1844. Before his tenure as governor, Ford's professional life included service as an attorney and judge throughout Illinois. His background in the legal field gave him a unique perspective which may have influenced his career as governor of Illinois from 1842-1846. Although Governor Ford is relatively well-known for his association with The Church of Jesus Christ of Latter-day Saints and its history, his background and the bearing it had on the martyrdom of the Smiths has received relatively little attention from scholars.

In this thesis I contend that Governor Ford's choices in Carthage, Illinois can be traced in some ways to his legal background. I also examine his earliest interactions with Joseph Smith in 1842-1843, and how those interactions may have also been influenced by Ford's legalistic viewpoints. I suggest it is possible Ford's legal background more than his political experience may have had the most bearing on those interactions. Chapter one summarizes some of the financial, political, and mobocratic difficulties citizens in Illinois dealt with in the late 1830s and early 1840s. This context shows that even before Ford's election in 1842, Illinois had severe challenges that affected the Saints and their neighbors. Chapter two explores some of the legal cases Ford heard while serving on the Illinois bench and bar. This chapter investigates the unique balance Ford attempted to maintain between law and justice, while also suggesting Ford may have occasionally strayed from consistently following the law. In chapter three, Ford's transition into a political figure in Illinois history, as well as his extensive interactions with Smith are analyzed. Throughout these interactions, Ford seemed to frequently rely on his background in law to help him make decisions about Smith. This analysis is continued in chapter four when Ford chose to intervene in Hancock County after the *Nauvoo Expositor* printing press was destroyed. This chapter systematically relates Ford's previous legal cases to the specific choices he made in Carthage. As a conclusion, chapter five serves to summarize these findings, and also opens further opportunities for research that demonstrate how Ford's interactions with the Saints in Illinois may have continued to be affected by his past.

This thesis provides research suggesting Ford's choices surrounding the Smiths in Hancock County can be traced to his past and should not necessarily be considered isolated events in 1844. Furthermore, it adds to our understanding of church history by giving another paradigm in which to examine the martyrdom of Joseph Smith in Carthage Jail.

Keywords: Thomas Ford, Joseph Smith, Carthage Jail, Hancock County, Nauvoo, Illinois, martyrdom, extradition, lawyer, judge, governor

## ACKNOWLEDGEMENTS

Many individuals have contributed to this thesis. Early on Dr. Richard E. Bennett suggested that a thesis on Governor Thomas Ford would be a worthwhile venture. He and many other BYU religion professors helped me refine those initial thoughts into this final work.

Dr. Andrew Hedges' helpful feedback guided me throughout each chapter. His background in church history and knowledge of the Saints in Illinois have been extremely important to my research and writing. His guidance has improved my ability to write, research, and add to the already vast contributions of scholars before me who have written about the martyrdom of Joseph Smith. I appreciate the large amount of time he has invested in each chapter of this thesis and the improvements his suggestions have added to the final work. His help has been critical for this accomplishment. I also appreciate the time the other members of my thesis committee, Barbara Morgan Gardner and David Boone, have sacrificed to read and participate in this thesis. Dr. Robb Hoch was instrumental in reading various parts of this work and giving me valuable suggestions.

I thank my parents, Mike and Marcia Black who instilled in me at a young age a love of church history and of the Prophet Joseph Smith. This love has carried me throughout this endeavor.

The greatest contribution has come from my wife, Britta. She has helped carry the burden of this thesis from day one and has given assistance and suggestions along the way. Her unending support, sacrifice, and encouragement has been heaven-sent. Our children Melanie, Kelsey, and Brian have graciously allowed my absence from time to time to complete this project.

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## Introduction

High on the city bluff over-looking the industrious, bustling city of Nauvoo, Illinois, there stood a partially completed temple. On June 24, 1844, Joseph Smith spent his final day in Nauvoo. As he rode out of town towards the city of Carthage, he stopped at this glorious edifice and surveyed the city that had grown under his careful gaze from a swampy marsh into one of the largest cities in Illinois.<sup>1</sup> As he paused on the bluff, he remarked, “This is the loveliest place and the best people under the heavens; little do they know the trials that await them.”<sup>2</sup> These final, ominous words very well could have reflected his own imminent incarceration and murder at the hands of an angry mob just three days later.

The death of Joseph Smith and his brother Hyrum in Carthage Jail is among the most tragic and pivotal events in the history of The Church of Jesus Christ of Latter-day Saints. The Smiths’ deaths sparked an immediate change in church leadership and led in part to the eventual expulsion of most of the Saints from Nauvoo. It also affected their relationship with the United States government as a whole and some of its leaders specifically.

It is likely few government officials relating to the history of the Saints have received as much scorn or ridicule as Governor Thomas Ford, who was the governor of Illinois when the Smiths were martyred.<sup>3</sup> It is often easy for church members and historians alike to condemn

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<sup>1</sup> See Susan Easton Black, “How Large was the Population of Nauvoo?,” *BYU Studies Quarterly* 35, no. 2 (1995): 91-94. In her article, Black recounted the various Nauvoo population discrepancies that have long been perpetuated by scholars and summed up her research by declaring, “A synthesis of all these noncensus data indicates that the population of Nauvoo grew from 100 in 1839 to about 4,000 in 1842, rose to about 12,000 in 1844, and stood at around 11,000 in 1845. Births, deaths, immigration, apostasy, transiency, and many other factors present in frontier river towns like Nauvoo, of course, make it difficult to pin down this moving target, but these numbers are based on the best available demographic information and should replace the older assumed or previously estimated population figures for Nauvoo.”

<sup>2</sup> Andrew H. Hedges, Alex D. Smith, and Brent M. Rogers, eds. *Journals, Volume 3: May 1843-June 1844*. Vol. F-1 of the Journals series of The Joseph Smith Papers, general editors Ronald K. Esplin and Matt J. Grow (Salt Lake City: Church Historian’s Press, 2011), 151. Hereafter cited as “Joseph Smith Papers, J[vol. #]: [p. #].”

<sup>3</sup> One could argue that only Missouri Governor Lilburn W. Boggs of Missouri, who issued the infamous “Extermination Order” of 1838, is more well-known and disliked by church members today. Presidents Martin Van

Governor Ford for his conduct regarding the debacle at Carthage Jail and in his handling of the church members in Illinois.<sup>4</sup> Part of this condemnation comes because he was the governor of the state, he was in the same county when the martyrdom took place, and he had promised the Smiths safety in Carthage. However, a careful study of the social, political, and religious situation in Hancock County in the 1840s shows Ford was in a difficult situation regarding the Smiths. While the basic outline of the history that led the Smiths to Carthage is well-known, the role that Governor Ford played in the tragedy has received relatively little attention from scholars.<sup>5</sup> This is particularly true regarding how Ford's personal and professional background may have influenced his decisions as governor.

A person who extensively studies the martyrdom of Joseph Smith often wonders: To what degree should Governor Ford be held responsible for the martyrdom of Smith? That question led to this thesis addressing the specific matter of "*How did Governor Thomas Ford's background, choices, and actions influence the martyrdom of Joseph Smith in Carthage Jail?*"

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Buren and James Buchanan are also often viewed unfavorably by church members, but it would be hard to argue either one brings the same feelings of disdain that Governor Ford does to most church members.

<sup>4</sup> Introduction by Rodney O. Davis to Thomas Ford, *A History of Illinois: From Its Commencement as a State in 1818 to 1847* (Urbana and Chicago: University of Illinois Press, 1995), xxiii.

<sup>5</sup> For scholarly treatments of the events surrounding the martyrdom of Joseph Smith and his brother Hyrum see Richard Lyman Bushman, *Joseph Smith: Rough Stone Rolling* (New York: Alfred A. Knopf, 2005), 544-553; George Q. Cannon, *Life of Joseph Smith the Prophet* (Salt Lake City, Utah: Deseret Book Company, 1964), 477-527; John Henry Evans, *Joseph Smith An American Prophet* (New York, New York: The MacMillan Company, 1933), 185-207; Robert Bruce Flanders, *Nauvoo, Kingdom on the Mississippi* (Urbana: University of Illinois Press, 1965), 306-311; Thomas Ford, *A History of Illinois: From Its Commencement as a State in 1818 to 1847* (Chicago: S.C. Griggs & Co., 1854), 321-355; Glen M. Leonard, *Nauvoo: A Place of Peace, A People of Promise* (Salt Lake City, Utah: Deseret Book Company, 2002), 362-417; Dallin H. Oaks and Marvin S. Hill, *Carthage Conspiracy, The Trial of the Accused Assassins of Joseph Smith* (Urbana and Chicago: University of Illinois Press, 1975), 6-45; B.H. Roberts *The Rise and Fall of Nauvoo* (Salt Lake City, Utah: The Deseret News, 1900); Willard Richards, "Two Minutes in Jail," *Times and Seasons*, Vol.5, No.14, (1 Aug. 1844) 598-9. From the *Nauvoo Neighbor*, accessed online at [http://www.mormonism.net/artikkelit/richards\\_2\\_minutes\\_in\\_jail.shtml](http://www.mormonism.net/artikkelit/richards_2_minutes_in_jail.shtml); John Taylor, *Witness to the Martyrdom* (Salt Lake City, Utah: Deseret Book Company, 1999); Charles Manfred Thompson, "A Study of the Administration of Thomas Ford, Governor of Illinois, 1842-1846" (master's thesis, University of Illinois, 1910); Robert S. Wicks and Fred R. Foister, *Junius & Joseph: Presidential Politics and the Assassination of the First Mormon Prophet* (Logan, Utah: Utah State University Press, 2005). In each of these studies, the general sketch of the martyrdom of Joseph Smith is told with a few brush strokes intended to retell Governor Ford's involvement, but very little is written with the intention of demonstrating how Ford's background played a hand in the martyrdom of Joseph Smith.

To date no known work has been published regarding Ford’s legal and judicial history or how that history may have influenced the mobocratic atmosphere that led to the Smiths deaths.

Andrew H. Hedges addressed part of Ford and Smith’s dealings in his article “Thomas Ford and Joseph Smith, 1842-1844,” in which he offered a deeper glimpse into their complicated relationship.<sup>6</sup> Hedges explained some of the interactions between Ford and Smith following Ford’s election as governor in 1842 and ending in Smith’s martyrdom in 1844. While detailing this relationship, Hedges also briefly described the transition Ford experienced leaving the judicial field and becoming the governor of Illinois. Although adding another viewpoint in which to examine the martyrdom of Smith, this time through the lens of Governor Ford, Hedges only examined the first two years of Ford’s governorship, and largely left untouched his previous life as a lawyer and judge.<sup>7</sup> This thesis, however, will examine a larger portion of Ford’s life and seek to add greater historical context into the decisions of Governor Ford and Joseph Smith that may have led to the martyrdoms in Carthage Jail.

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<sup>6</sup> Andrew H. Hedges, “Thomas Ford and Joseph Smith, 1842-1844,” *Journal of Mormon History* 42, (October 2016): 97-124.

<sup>7</sup> Hedges himself stated his article is an “effort to better understand the nature of the relationship between Ford and Smith, as well as to provide some insight into the decisions both men made that led to Smith’s death in June 1844.” Hedges, “Thomas Ford and Joseph Smith,” 98.



## Chapter 1:

### Background of Illinois and Thomas Ford

Thomas Ford was born in Uniontown, Pennsylvania on December 5, 1800, to a mother who was described as being “a woman of heroic character, whose husband, Robert Ford, had been killed by the Indians.”<sup>8</sup> Ford’s widowed mother eventually moved the family to Illinois (not yet a state) in pursuit of cheap land. Ford was both short and slender in frame. He was described as having “deep-set grey eyes, and an aquiline nose which had a twist to one side. Though small physically he was large mentally.... He was noted neither for athletic accomplishments nor for military achievements.”<sup>9</sup> Although he was not primarily distinguished for his military background, he had nonetheless served in the Black Hawk War of 1831-1832 as a spy.<sup>10</sup>

Ford’s early education consisted merely of common schools and one year at Transylvania University in Kentucky. While in Kentucky, Ford taught school to help support himself before being accepted at the bar.<sup>11</sup> Ford first practiced law in Waterloo, Illinois, and then joined a law partnership with his half-brother, George Forquer. Forquer (who later served as an Illinois State Senator, secretary of state, and attorney general) was one of the main proponents of Ford’s

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<sup>8</sup> John Moses, *Illinois, Historical and Statistical* (Chicago: Fergus Printing Company, 1889), 448.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid. See also Ford, *A History of Illinois*, 114. “The war tested people who later shouldered heavy military responsibilities. Albert Sidney Johnston, Abraham Lincoln, Winfield Scott, and Zachary Taylor served. Governors of pioneer Illinois between 1834 and 1846, William L.D. Ewing, Joseph Duncan, Thomas Carlin, and Thomas Ford, also served in the war.” James E. Davis, *Frontier Illinois* (Bloomington & Indianapolis: Indiana University Press, 1998), 203.

<sup>11</sup> *Transaction of the Illinois State Historical Society For the Year 1911* (Springfield, Illinois: Illinois State Journal Co., State Printers, 1913), 108.

introduction into the legal field.<sup>12</sup> In 1825, the two half-brothers began practicing law together in Edwardsville, Madison County, Illinois.<sup>13</sup>

Besides running a law office in Edwardsville, Ford also rode the judicial circuit as a lawyer from 1829 through 1835. In this position, Ford served as prosecuting attorney for the 5<sup>th</sup> circuit which comprised 15 counties located west and north of the Illinois River.<sup>14</sup> Beginning in January 1835, Ford served as a circuit judge for Peoria and other northern counties in Illinois. Ford eventually moved his residence to Ogle County and stayed there until his election as governor in 1842.<sup>15</sup> After two years of serving as a circuit judge, Ford was elected as judge of the municipal court in Chicago.<sup>16</sup> Three years later, he was placed on the bench of the supreme court for the state of Illinois. As a supreme court justice, Judge Ford would again ride the circuit and establish himself throughout various counties in Illinois as a trusted advocate of the Democratic Party.<sup>17</sup> As will be shown, these formative years in the volatile justice system of Illinois seemed to have a deep impact on the future Governor Ford.

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<sup>12</sup> Richard Lawrence Miller, *Lincoln and His World: Prairie Politician 1834-1842* (Mechanicsburg, Pennsylvania: Stackpole Books, 2008), 36; James A. Rose, *Blue Book of the State of Illinois, 1907* (Springfield, Illinois: Phillips Bros., State Printers, 1908), 157, 159.

<sup>13</sup> *The National Cyclopaedia of American Biography, Volume XI*. (New York: James T. White & Company, 1901), 46.

<sup>14</sup> *Ibid.*

<sup>15</sup> Rodney O. Davis, "Judge Ford and the Regulators, 1841-1842," *Illinois State Historical Society* (1981): 25.

<sup>16</sup> As noted in footnote 1, Chicago and Nauvoo have been frequently compared in population statistics. If the two cities were similar in size, then it would likely have influenced Ford's background of the workings of a large city and how being judge and law-enforcer would impact the residents there.

<sup>17</sup> Papers of Abraham Lincoln Digital Library, "Thomas Ford," <https://papersofabrahamlincoln.org/persons/FO03847> (accessed October 19, 2018).

## Context of Ford and Illinois Meeting Joseph Smith and His Followers

In late 1838 and early 1839 the Saints endeavored to establish a home in Illinois after having been forcibly expelled from Missouri due to the infamous Extermination Order.<sup>18</sup> The church members' hasty escape from their Missouri persecutors left many people in a precarious situation, as they were forced to leave behind most of their property and possessions. These Saints also had to travel without the guidance of their leader who had been incarcerated in Liberty Jail in Missouri. Without Smith's leadership, opinions from several leaders caused some Saints to question the wisdom of continuing to gather in one large city as they had previously done in Missouri and Ohio. However, when Smith arrived in Quincy, Illinois on April 22, 1839, he received revelation the Saints should gather together as before.<sup>19</sup> The place they selected was Commerce (later renamed Nauvoo), Illinois, located on a swampy bend on the Mississippi River.

When Joseph Smith first purchased the land in Illinois and Iowa along the Mississippi River in 1839, the location was described as having

one stone house, three frame houses, and two block houses which constituted the whole city of Commerce.... The place was literally a wilderness. The land was mostly covered with trees and bushes, and much of it so wet that it was with the utmost difficulty a foot man could get through, and totally impassible for teams. Commerce was so unhealthy, very few could live there, but believing that it might become a healthy place, by the blessing of heaven to the Saints, and no more eligible place, presenting itself, I considered it wisdom to make an attempt to build up a City.<sup>20</sup>

Following the purchase of land along the Mississippi, the Saints began digging a drainage canal to drain the swampy lands along the river. During the first three summers in Illinois, the Saints

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<sup>18</sup> In late October 1838, Missouri Governor Lilburn Boggs declared that the Mormons were enemies and should be either exterminated or forcibly removed from the state. For a treatment of the Saints removal from Missouri, see Bushman, *Rough Stone Rolling*, 356-372.

<sup>19</sup> *Ibid.*, 382.

<sup>20</sup> Dean C. Jessee, Mark Ashurst-McGee, and Richard L. Jensen, eds. *Journals, Vol. 1: 1832-1839*. Vol. C-1 of the Journals series of The Joseph Smith Papers, edited by Dean C. Jessee, Ronald K. Esplin, and Richard Lyman Bushman (Salt Lake City: Church Historian's Press, 2011), 954. Hereafter cited as "Joseph Smith Papers, J[vol. #]:[p. #]."

suffered from mosquitoes and a malarial plague. Despite the challenges of cultivating a new land for his people, Smith's most successful city began to take root. The people of Nauvoo persevered through their initial difficulties and continued to construct homes and buildings that would soon be filled through a steady flow of immigrating converts. Like the rest of Illinois, Nauvoo's economy depended largely on high immigration rates that could help recoup the debts incurred on extensive land purchases. Fortunately for the Saints, Nauvoo's population would continue to climb until the Saints were once again forced to leave their homes due to mob violence.

## Economics

While Ford was laboring as a lawyer and judge in the 1830s and early 1840s, Illinois was facing problems of epic proportions that had heavy bearing on its citizens. One of these was the Panic of 1837—a recession, essentially, that continued for nearly six years in the United States and caused the financial ruin of thousands. Although the larger, more industrialized eastern states bore the burden of the first effects of the recession, the frontier states were not exempt from the crisis. The panic eventually caught up to the Midwest in 1839, but was generally abated by 1843.<sup>21</sup>

The Panic of 1837 impacted Illinois in a number of ways. Like their more eastern neighbors, Illinois had previously voted for public improvements and expansions that would tax (both monetarily and politically) its citizens severely. The Internal Improvements Act in 1837 burdened Illinois with monetary commitments worth \$10 million to build railroads, canals, and

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<sup>21</sup> Bushman, *Rough Stone Rolling*, 328-332. See also Marvin S. Hill, C. Keith Rooker, and Larry T. Wimmer, "The Kirtland Economy Revisited: A Market Critique of Sectarian Economics," *BYU Studies Quarterly* 17 (October 1977). Robert Flanders contends that two separate panics occurred in 1837 and 1839 rather than one prolonged and westward flowing Panic of 1837. Flanders, *Kingdom on the Mississippi*, 18.

roads at the taxpayers' expense.<sup>22</sup> One of the largest of these internal undertakings was the Illinois- Michigan Canal which sought to mimic the success of the Erie Canal by uniting the Great Lakes to the Mississippi River. The economic expansions in the eastern United States were viewed as generally successful due to the larger population and cash flow those states enjoyed. The state legislature of Illinois likely viewed the enormous emigration to the state as justified speculation for the improvements. These various state improvements caused land prices to climb along the railroad and canal rights-of-way.<sup>23</sup>

Lands and properties were traded and resold as the spirit of speculation increased. According to one study, "The dollar volume of such sales increased from \$2,500,000 in 1830 to over \$25,000,000 in 1836. The increment of land values and the continuing influx of new settlers suggested an almost limitless future of prosperity for the state and its enterprising citizens."<sup>24</sup> This caused towns to seemingly appear overnight throughout the state. These townships had little to them economically besides the hope to be worth more when they would be sold later on. This is likely what Isaac Galland was hoping for when he began doing real estate business with the Saints and others. Galland had purchased many large tracts of land around the Mississippi River in both Illinois and Iowa and offered to sell these properties to the Saints when they began moving to the area in 1839. Galland was a bit of a crook and used several means to sell and resell the property that he either owned or pretended to own.<sup>25</sup> In the end, Smith and the Saints purchased many costly tracts of land from Galland. These purchases forced the Saints into the

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<sup>22</sup> Davis, *Frontier Illinois*, 230-232.

<sup>23</sup> Flanders, *Kingdom on the Mississippi*, 18.

<sup>24</sup> *Ibid.*, 17.

<sup>25</sup> For a thorough examination of Isaac Galland's land speculation practices, see Flanders, *Kingdom on the Mississippi*, 25-37. Bushman writes that Galland's terms on the land sales along the Mississippi River seemed "heaven-sent" to such an impoverished people. Galland's favorable offer of 20,000 acres for \$2 per acre with nothing down and payment stretched over 20 years was likely so generous because of the unlikelihood that Galland had legitimate ownership of the land. *Rough Stone Rolling*, 382-383.

real-estate business themselves and determined Nauvoo city lots would be costly for future incoming pioneers.<sup>26</sup>

Other parts of Illinois also seemed primed to blossom economically. Many places were particularly well-suited for settlement and trading. The Great Lakes linked northern Illinois to New York and other parts of New England, while the southern part of the state had tributaries that flowed to the Southern United States. In addition, the Mississippi River ran along the state's entire length, thus connecting north and south.<sup>27</sup> By the middle of the 1830s, 200 steamboats plied the waters of Illinois' rivers, with that number more than doubling within the next decade.<sup>28</sup> These steamboats revolutionized trading on river towns. This method of transportation, along with the railroads, played an integral role in both the location and demographics of the state's settlements. The faster immigration occurred, the quicker the internal improvements were completed, due in part to the thousands of immigrants who labored on them.<sup>29</sup>

The outlook of these economic improvement ventures likely appeared rosy for the state of Illinois. There was an abundance of immigrants, land, goods, and excitement for the future. However, the state suffered from poor planning and inexperience that doomed the venture from the start.<sup>30</sup> Most Illinois citizens were poor, and the collapse of the economy strained the already limited financial position of the state. According to Ford, among Illinois' entire population, there were only "two or three hundred thousand dollars in good money in the pockets of the whole people, which occasioned a general inability to pay taxes."<sup>31</sup> This lack of currency often led to

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<sup>26</sup> Flanders, *Kingdom on the Mississippi*, 42.

<sup>27</sup> *Ibid.*, 14.

<sup>28</sup> Davis, *Frontier Illinois*, 222.

<sup>29</sup> *Ibid.*, 226.

<sup>30</sup> Flanders, *Kingdom on the Mississippi*, 18.

<sup>31</sup> Ford, *A History of Illinois*, 278. This lack of hard currency was not new in frontier Illinois. Ford also noted that before the war of 1812, the skins of racoons and deer provided the circulating medium settlers used to buy and sell. Ford, *A History of Illinois*, 43.

difficulties in business dealings and encouraged counterfeiting throughout the state. In Nauvoo, it was a common practice that bonds for deeds and other proof of land ownership were used as a type of currency.<sup>32</sup> Due in part to the financial overextension of the state, Illinois citizens soon found themselves in a precarious monetary position. They were unable to pay their obligations and were uncertain what to do to disentangle themselves from their financial burden.<sup>33</sup> As the economy plummeted, it seemed everything else did too, except for interest on state debt. Speaking of the depressed economy, the *State Register* wrote on Christmas Day in 1839, “It is difficult to conceive of a worse condition of things than is now in prospect for the state of Illinois.”<sup>34</sup> The “difficulties were insurmountable,” one historian wrote, “overall failure haunted Illinois for years.”<sup>35</sup> After the economic collapse, all that remained of the expansion projects was an incoherent scattering of roads and canal ditches. The failure of finishing these internal improvements ensured that news, commodities, and help would generally travel slowly along the untamed prairie of Illinois in the 1840s.

## Politics

The political landscape was almost as complex as the economic situation. The two main political parties during this time period in Illinois were the established Democratic party and newer, up-and-coming Whigs. The Whigs advocated for internal improvements, a national bank, and plenty of institutions (such as libraries and universities).<sup>36</sup> The Democratic party, on the other hand, valued a society built on the sturdy, independent shoulders of farmers and laborers.

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<sup>32</sup> Flanders, *Kingdom on the Mississippi*, 127.

<sup>33</sup> *Ibid.*, 19.

<sup>34</sup> Quoted from Flanders, *Kingdom on the Mississippi*, 19.

<sup>35</sup> Davis, *Frontier Illinois*, 232.

<sup>36</sup> *Ibid.*, 227.

The Democrats generally resisted many federal activities, such as internal improvements or a national bank, and shied away from larger communities and cities. During this time, the Democrats held the majority of political power among the people.<sup>37</sup>

Despite the Democrats' influence, the Whigs battled back on all facets of life in Illinois. Though both parties did a fair amount of electioneering and raising phony issues, they also hammered out key solutions that helped shape Illinois into what it would become in the near future. Though many Democratic party leaders rejected the idea of internal improvements, the popularity and success of the Erie Canal seemed to encourage them to support these endeavors in 1836. Many citizens of Illinois demanded extensive internal improvements regardless of their specific political affiliations.<sup>38</sup> Not all Illinois residents were thrilled with the ventures, however. In fact, some southern citizens feared the completion of the Illinois-Michigan Canal would cause a mass migration of Yankee settlers and their easterly principles.<sup>39</sup>

Many of these state improvement and expansion policies were enacted during the tenure of Governor Joseph Duncan and the legislature in 1837.<sup>40</sup> Duncan had previously served in the United States House of Representatives as a Democrat but had become disillusioned with the Jacksonian Democratic party during his tenure in Congress. By the time he ran for Illinois governor the first time in 1834, Duncan maintained his Whig tenets and was still elected by the Democratic state.<sup>41</sup>

When Ford ran for governor in 1842 against Joseph Duncan, the state of Illinois faced a number of difficult issues. There was no money in the state treasury, the state's revenue was

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<sup>37</sup> Ibid., 228.

<sup>38</sup> Thompson, "A Study of the Administration of Thomas Ford," xxix-xxx.

<sup>39</sup> Flanders, *Kingdom on the Mississippi*, 15.

<sup>40</sup> Davis, *Frontier Illinois*, 228-229.

<sup>41</sup> One Illinois historian wrote that had Duncan's political change been more well known, the results of the election may have been different. Although suspected, but never charged for being a Whig, Duncan was elected by a large majority. Moses, *Illinois, Historical and Statistical*, 400.



insufficient to pay for expenses, and the state had incurred a debt of more than \$15,000,000 for internal improvements. In addition, annual interest alone on the state's debt was upwards of \$800,000, which entirely sapped the state's annual income of roughly \$100,000 per year.<sup>42</sup>

Illinois seemed pinned by their crushing debt, a looming economic depression, and little hopes of extricating themselves from this burden.

In the 1842 gubernatorial election the main political issues included religion, mobs, finance, and transportation. Duncan, who was the Whig candidate, ran on a spirited "anti-Mormon" crusade, with the repeal of the Nauvoo charter the principal goal of his campaign.<sup>43</sup> Ford, a Democrat, did not pursue as an aggressive 'anti' approach towards the Saints in general, yet still promised to either repeal or amend the Nauvoo charter if elected governor.<sup>44</sup> The Saints in Illinois were seemingly stuck between a rock and a hard spot. Most church members probably considered Ford the lesser of two evils and many cast their votes for him.<sup>45</sup> He ultimately won the polls in Hancock County by over 1,000 votes.<sup>46</sup> Ford reflected on his election by suggesting he was chosen by the people because of his political affiliation, rather than on his specific stance towards various issues of the canvass.<sup>47</sup>

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<sup>42</sup> Davis, *Frontier Illinois*, 233. See also Ford, *A History of Illinois*, 278.

<sup>43</sup> Flanders, *Kingdom on the Mississippi*, 228-229.

<sup>44</sup> Ford particularly disagreed with the "powers granted" to the citizens of Nauvoo that he felt put them on unequal ground with their neighbors. *Journal of the Senate of the Thirteenth General Assembly of the State of Illinois, at Their Regular Session, Begun and Held at Springfield, December 5, 1842* (Springfield, Illinois: William Walters, Public Printer), 44.

<sup>45</sup> Hedges, "Thomas Ford and Joseph Smith," 99-100.

<sup>46</sup> *The Wasp*, August 20, 1842, Vol. 1, No. 18.

<sup>47</sup> In Ford's book, he wrote about the 1842 election by stating that, "As soon as I was announced as a candidate for governor the Mormon question was revived against me. But it could not be made to work much against me. I had been as little concerned in the passage of the Mormon charters as my opponent. Of course, in a State so decidedly democratic I was elected by a large majority. The banks, the State debt, the canal, and the Mormons, together with the general politics of the Union, were the principle topics of discussions during the canvass. Topics of local interest, however, had but little influence on the result of the election. The people of Illinois were so thoroughly partisan upon the great question of the nation that matters merely of local concern though of vital importance to the people, were disregarded." Ford, *A History of Illinois*, 277-278.

## Society and Religion

While Illinois' political and financial troubles began to mount in 1839 and 1840, Joseph Smith and his followers commenced their exodus from Missouri to Illinois. At first, the Saints were accepted by their new neighbors. Historian Robert Bruce Flanders wrote in *Nauvoo, Kingdom on the Mississippi*, "The Mormons were prospective new settlers and as such were more than welcome. New people were considered of the greatest importance to the future prosperity of Illinois. There was little concern at first the Mormons were a 'peculiar people'; the region into the which they had come was already perhaps the most cosmopolitan in the United States."<sup>48</sup> According to Ford, when the Saints emigrated from Missouri "much sympathy was felt and expressed for them by people of Illinois...whose citizens, until some time after this period, were justly distinguished for feelings and principles of the most liberal and enlightened toleration in matters of religion."<sup>49</sup> Part of this toleration likely came from the fact that despite the downturn of the economy, the population continued to increase. Which as Flanders noted, was viewed as an avenue for "extricating Illinois from public bankruptcy and private ruin" due to an increase in taxpayers.<sup>50</sup>

The Saints were not the only group making Illinois their new home. Illinois historian James E. Davis wrote in *Frontier Illinois* that, "Chain migration and group migration ushered many Yankees, other Northerners, and foreigners to Illinois, especially to the northern half—the booming half—stamping that region with unique imprints."<sup>51</sup> The southern half of the state, on the other hand, was mostly peopled from the southern part of the United States. Both parts of the

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<sup>48</sup> Flanders, *Kingdom on the Mississippi*, 13.

<sup>49</sup> Ford, *A History of Illinois*, 261.

<sup>50</sup> Flanders, *Kingdom on the Mississippi*, 19.

<sup>51</sup> Davis, *Frontier Illinois*, 246.

state held to the notion that if immigrants were to come to Illinois, it would be best to come as individuals and families rather than whole groups set on bringing with them highly biased mindsets.<sup>52</sup> In these matters, the established citizens of Illinois felt it would be in everyone's best interest for newcomers to adapt and adopt rather than to stand out. With the exception of the Saints, most of the other immigrants seemed to understand adopting to their new neighbors and their way of life was essential to acceptance on the Illinois frontier.

Although carrying little material wealth with them, many church members brought their social structures, devout faith, practicality, and a sense of purpose.<sup>53</sup> Many of these Saints came from the working class in New England and Canada and were poor, wary of government, and fiercely loyal to their religious society. The church was frequently referred to as America's Islam and was perceived as wielding enough power to fortify social, economic, and political dominion wherever it was established.<sup>54</sup> These social ties likely strengthened Nauvoo and its satellite settlements and pulled the people together, thus perhaps unintentionally (or intentionally) alienating their "gentile" neighbors who had previously taken pity on them.

Though the Saints had been mostly welcomed by their Illinois neighbors when they first arrived, by the time of the gubernatorial election of 1842 this viewpoint had mostly changed. According to Ford, the Saints had been accused by the citizens of Illinois as "becoming unpopular, nay odious, to the great body of the people.... They were charged with numerous thefts and robberies, and rogueries of all sorts; and it was believed by vast numbers of the people, that they entertained the treasonable design, when they got strong enough, of overturning the government, driving out the old population, and taking possession of the country, as the

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<sup>52</sup> Flanders, *Kingdom on the Mississippi*, 20.

<sup>53</sup> *Ibid.*, 2.

<sup>54</sup> *Ibid.*, 3.

children of Israel did in the land of Canaan.”<sup>55</sup> The same views that had alienated their neighbors in Missouri, namely the Saint’s perceived political power and unyielding zeal to their faith, began to offend their new neighbors in Illinois.<sup>56</sup> It probably appeared to the citizens of Illinois the Saints were not going to change and mold to their society. Illinoisans feared the Saints’ resolve to act unitedly on their beliefs rather than on the unorthodox beliefs themselves.<sup>57</sup>

## Mobs and Violence

Along with economic hardships, political issues, and religious attitudes, one of the largest problems facing Illinois’ society in the early and mid 1800s was the fact violence and mobs were viewed by many as acceptable behaviors. In his own treatise, Ford gave a few examples of mobs who had run their course in the history of Illinois prior to the Saint’s arrival. These included the regulators of 1816 and 1817 who whipped and ran out of town a number of people including sheriffs, justices of the peace, and even judges; a gang in 1831 that built a fort in Pope County and basically controlled Pope, Massac, and other counties until they were taken down by an organized posse; and the mob violence that led to the death of Elijah Lovejoy, an abolitionist newspaper editor, in 1837.<sup>58</sup> About this same time, Ford noted many organized mobsters took part in “murders, robberies, horse-stealing, and in making and passing counterfeit money.”<sup>59</sup> These examples were not isolated cases in Illinois, but part of a common thread that ran throughout the history of frontier America.

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<sup>55</sup> Ford, *A History of Illinois*, 268-269.

<sup>56</sup> Richard Lyman Bushman, “Mormon Persecutions in Missouri, 1833,” *Brigham Young University Studies Quarterly* (1961): 11-20.

<sup>57</sup> Flanders, *Kingdom on the Mississippi*, 3.

<sup>58</sup> Ford, *A History of Illinois*, 232-233.

<sup>59</sup> *Ibid.*, 246.

A prevalent way to settle disagreements on the frontier was often through acts of violence. A dominant trait of this culture was intense individualism, and it apparently played a critical role in the culture and makeup of the people. One historian noted many southern settlers “kept to themselves, maintaining a few closer friends, and defended family and personal reputations with zeal and even fury.”<sup>60</sup> In places like this, vigilantes often known as regulators began to form as a way to prevent or deal with criminals and other disorderly people.<sup>61</sup> It seems these mobs were mainly concerned with one thing: getting what they felt was best for them. In urban areas, the law was more often strictly followed and enforced than in rural communities. In those rural societies where the government did exist, the influence of the government was generally small and often ineffective. In addition, many frontiersmen had an instinctual distrust of almost any exercise of authority upon them.<sup>62</sup>

It seems this emphasis on individualism permeated Illinois society in such a way that many citizens accepted mobs or men taking the law into their own hands. When the Saints had asked for redress from Governor Dunklin in Missouri for the Jackson County riots, he coolly replied, “there are cases, sometimes, of individual outrage which may be so popular as to render the action of courts of justice nugatory, in endeavoring to afford a remedy.” He then suggested that the Saints themselves must be the ones at fault for the Missouri citizens’ hostility. He concluded the matter by stating, “All I can say to you is, that in this Republic, the *vox populi* is the *vox Dei*.”<sup>63</sup> Many people throughout society seemed to understand when mobs or the majority of society spoke, it was the equivalent of God’s voice. The fact mobocracy was a

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<sup>60</sup> Davis, *Frontier Illinois*, 250.

<sup>61</sup> David H. Fischer, *Albion’s Seed: Four British Folkways in America* (Oxford: Oxford University Press, 1989), 765.

<sup>62</sup> W.J. Cash, *The Mind of the South* (London: Thames and Hudson Ltd, 1971), 33.

<sup>63</sup> Bushman, *Rough Stone Rolling*, 344.

common enough aspect of life in Illinois leads one to understand, at least in part, the complacency at which Ford seems to deal with them later in his governorship.

## Summary of Chapter 1

By taking a closer look into the many layers of problems confronting Illinois in the 1830s and 1840s, one can better understand the difficulties facing a governor or a citizen of such a place. These factors likely helped influence some of the decisions Ford chose to make as governor of Illinois.

Speaking of his own four-year term as governor, Ford remarked those years were “the most difficult period of our history.”<sup>64</sup> Part of his problems likely stemmed from the political chaos surrounding the Saints (including mobbing and violence), but also comprised taxation, repudiation, and internal improvements. Thus, Governor Ford inherited a state brimming with social, political, racial, religious, and monetary problems. Despite handling most of the issues he faced with a certain measure of precision and poise, Ford may well go down in history as having mishandled the biggest issues he grappled with as Governor: Joseph Smith and his followers.

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<sup>64</sup> Ford, *A History of Illinois*, xv.

## Chapter 2:

### Thomas Ford's Bench and Bar

Thomas Ford once wrote, "History is only philosophy teaching by examples."<sup>65</sup> By examining a few of Ford's legal cases then, some of his philosophies regarding frontier law and justice can be better examined. Due to the length of Ford's legal career, it is impossible in this study to review and include every case that Ford encountered as a lawyer and judge. Therefore, the cases examined in this chapter are meant to ascertain some of Ford's legal views, as well as a few of his patterns regarding punishment and justice.

#### Early Life and Introduction into Law

Ford's early education consisted mainly of rural primary schools in Waterloo, Illinois where his mother made both him and his older half-brother George Forquer walk three miles to school.<sup>66</sup> From a young age, Ford was blessed with a "vigorous and strong mind" and was initially interested in mathematics and reading poetry.<sup>67</sup> However, he first began his legal studies under Daniel Pope Cook, a local lawyer and future government official, who had taken an interest in young Ford and encouraged him to apply himself to law. This encouragement from Cook led Ford to briefly move to Lexington, Kentucky to study law at Transylvania University.

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<sup>65</sup> Ford, *A History of Illinois*, xiii.

<sup>66</sup> John Reynolds, *The Pioneer History of Illinois* (Chicago: Fergus Printing Co., 1887), 374, 395-397. Cook served as state attorney general, congressman, and as a judge on the western circuit in Illinois.

<sup>67</sup> *Historical Encyclopedia of Illinois and History of Peoria County Volume 2*. Edited by David McCulloch, (Chicago and Peoria: Munsell Publishing Company, 1902), 451. See also Reynolds, *The Pioneer History of Illinois*, 375.

After sufficient training, Ford gained adequate experience that qualified him to begin practicing law in 1823.

After he completed his study of law, Ford helped Duff Green edit a St. Louis newspaper called the *St. Louis Enquirer*. The main purpose of this newspaper was to advocate Andrew Jackson's candidacy for U.S. President.<sup>68</sup> Interestingly, Ford also ran another newspaper—*The Courier*, published in Springfield—during his circuit lawyer days in 1830, this time with Forquer at his side.<sup>69</sup> Perhaps it was in these occupations Ford developed deep feelings regarding 'freedom of speech' that would impact his views surrounding the destruction of the *Nauvoo Expositor's* printing press in 1844.<sup>70</sup> Despite these supplemental occupations in his early years, it seems evident throughout Ford's book, *A History of Illinois*, that his mind and heart were dictated by the law.

#### Thomas Ford as a Lawyer: 1825-1835

Following the brief period in which Ford worked at the newspaper in St. Louis, he moved to Edwardsville, Illinois, to begin a law practice with Forquer.<sup>71</sup> Forquer and Ford practiced law together from 1825 until 1829 when Ford moved to Quincy, Illinois, for the purpose of being

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<sup>68</sup> *The National Cyclopedia of American Biography, Volume XI.*, 46.

<sup>69</sup> *Historical Encyclopedia of Illinois*. Edited by Newton Bateman and Paul Selby, (Chicago: Munsell Publishing Company, 1903), 397.

<sup>70</sup> Regarding some of Ford's feelings about newspapers and freedom of speech surrounding the destruction of the *Nauvoo Expositor*, see chapter 4 page 65 of this thesis.

<sup>71</sup> *History of Peoria County*. McCulloch, 452.



nearer to his wife's parents.<sup>72</sup> Scanty court records in Edwardsville during these years leave little information written about Ford and Forquer's law practice.<sup>73</sup>

After Ford left his Edwardsville law practice, he began riding the judicial circuit as a lawyer. Being a circuit lawyer likely increased Ford's knowledge of the law. Judge John Caton, a man who rode the circuit and was a close associate of Ford's, recorded that

this circuit practice required a quickness of thought and a rapidity of action nowhere else requisite in professional practice. The lawyer would, perhaps, scarcely alight from his horse when he would be surrounded by two or three clients requiring his services. Each would state his case in turn. One would require a bill in chancery to be drawn. Another an answer to be prepared. A third a string of special pleas, and for a fourth a demurrer must be interposed, and so on, and all of this must be done before the opening of the court the next morning. Then perhaps he would be called on to assist in or to conduct a trial of which he has never heard before, just as the jury was about to be called, when he must learn his case as the trial progressed. This requires one to think quickly and to make no mistakes, and to act promptly to take advantage of the mistakes of the adversary, who was probably similarly situated. It is surprising how rapidly such practice qualifies one to meet such emergencies.<sup>74</sup>

These characteristics of being quick-thinking, methodical, and well-versed in law seemed essential for any successful frontier lawyer, especially one who climbed the ranks from itinerant lawyer to judge like Ford did.

In 1831, Ford was appointed to serve as district prosecuting attorney in the fifth circuit even though he had little legal experience.<sup>75</sup> This appointment first came from Governor Ninian Edwards, and then a later reappointment occurred by Governor John Reynolds. The introduction to Governor Edwards probably came from Daniel Cook, who was Edwards' son-in-law and

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<sup>72</sup> Ibid. Ford was married to Frances Hambaugh in Edwardsville, Illinois on June 12, 1828 by Theophilus Smith, a justice of the peace. Ford did not think very highly of Judge Smith. See footnote 81 and J.F. Snyder, "Governor Ford and His Family," *Journal of the Illinois State Historical Society* Vol. 3 No. 2 (July 1910): 46.

<sup>73</sup> Personal conversations with Edwardsville, Illinois county clerk's office and courthouse historians, February 19, 2019. Part of this is because a permanent courthouse was not constructed in Edwardsville until 1857.

<sup>74</sup> John Dean Caton, *Early Bench and Bar of Illinois* (Chicago: Chicago Legal News Company, 1893), 51.

<sup>75</sup> Orrin N. Carter, "The Early Courts of Chicago and Cook County," *Journal of the Illinois State Historical Society* 7, no. 2 (1914): 19.

political ally.<sup>76</sup> Having the right political connections likely allowed Ford to display the abilities he possessed as a lawyer. Becoming a state attorney was a momentous leap in the career arc Ford would follow.

Ford's unflinching loyalty to the Democratic party seems evident throughout his legal career. During the Illinois State Legislative session of 1832-1833, Ford was called upon to represent Democratic Supreme Court Justice Theophilus W. Smith, who was on trial in the Senate.<sup>77</sup> The charges against Smith included corruption of circuit clerkships, having suits brought against him and then serving as judge over the case, holding defendants illegally with excessive bail, arbitrarily suspending an attorney for requesting a change of venue, and passing judgment in a case without involving due process.<sup>78</sup> The impeachment hearing for Judge Smith lasted almost one full month and allowed Ford ample opportunities to speak before the state legislature who were hearing the case. This likely gave him recognition for his abilities as a lawyer, as well as his devotion to the Democratic party.

Ford's devotion to his party was soon tested, however. Throughout the hearing's adjournments, Judge Smith ordered his defense attorneys have "the desks of senators carefully searched for scraps of paper containing scribbling concerning their status upon the respective charges. Being thus advised, his counsel enjoyed peculiar advantages in the management of the defense."<sup>79</sup> Upon hearing Ford's final testimony, the Illinois Senate voted on the various charges regarding Judge Smith's behavior and resolved that Smith retain his position as judge.<sup>80</sup> Years

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<sup>76</sup> Charles Ballance, *The History of Peoria, Illinois* (Peoria, Illinois: N.C. Nason, 1870), 249.

<sup>77</sup> Alexander Davidson and Bernard Stuve, *A Complete History of Illinois, From 1673 to 1884* (Springfield, Illinois: H.W. Rokker, 1884), 368. This was the first impeachment hearing held in the state of Illinois.

<sup>78</sup> *Ibid.* Other charges included nepotism and for demanding a Quaker leave the courthouse because he would not remove his hat.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*, 368-369. The senate voted separately on each specific charge brought against Smith. A vote of two-thirds was necessary among the 22 senators (four were absent or excused) to impeach Smith. The highest vote on any one specific charge was 12, thus allowing the Judge to retain his position on the supreme court.

later in his *History*, Ford related his true feelings about Judge Smith by saying he “was an active, bustling, ambitious, and turbulent member of the democratic party....He never lacked a plot to advance himself, or to blow up some other person. He was a laborious and ingenious schemer in politics.”<sup>81</sup> Even after vouching for the Judge’s character while on trial in the senate, Ford used some elements of deception to procure the victory in the hearing so Smith would not be convicted. Ford’s willingness to follow this “ingenious schemer” in front of the Senate in 1833 may have opened future political doors and career opportunities. This case also seems to demonstrate Ford’s inclination to follow orders and do whatever he needed to succeed in his career-- even at the expense of trading integrity for success.

While serving as state’s attorney, Ford was given other opportunities to gain recognition for his abilities. In fact, while Ford was in Cook County in May 1834, he had the privilege of charging a grand jury in Cook County’s first ever term of court.<sup>82</sup> Ford accepted this opportunity and, as Caton writes, used it as a “means of introducing himself to a new community.”<sup>83</sup> Again, Ford likely took the openings awarded him to obtain recognition from his peers and overseers in the political and legal community.

Ford’s resolve to follow those in leadership positions also seemed to extend beyond his own political party into the military. A habeas corpus hearing was held in Cook County in May 1834 involving a military commandant at Fort Dearborn accused of enlisting an underage soldier without obtaining proper parental permission as the law required.<sup>84</sup> Ford represented the United States and the commandant in the hearing, while John Caton represented the young man. Using a witness who knew the young man from childhood, Caton was able to prove the soldier in

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<sup>81</sup> Ford, *A History of Illinois*, 220.

<sup>82</sup> Caton, *Early Bench and Bar of Illinois*, 39.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*, 39-40.

question was under age. However, he was unsuccessful in his attempts to show the father had not given his permission for the boy to enlist, though Ford was also unsuccessful in proving the father did give permission. The court contended the presumption should be made that the commandant did his duty in receiving parental permission before accepting the young man's enlistment, and the commandant was discharged.<sup>85</sup> Although Ford did not clearly prove the law was followed, he argued the assumption should be made that a military commander followed correct protocol. Ford's unswerving trust in leadership at this stage of his career seems evident in this argument. Ford likely put law and leadership on a pedestal and believed they should hold supremacy on the frontier.

Throughout many of Ford's legal cases he argued as a lawyer, it seems his desire for justice became one of his paramount pursuits. This pursuit came even though Ford may have occasionally lacked confidence in his own professional abilities at the bar. In the fall of 1834, Ford was tasked with the prosecution of Cook County's first murder trial. In June of 1834, an Irish laborer had come home in a drunken fit and beat his wife to death. During the trial, Ford initially attempted to persuade the court to downgrade the charge to manslaughter and a severe punishment, because he did not think he could sustain the heavier charge of murder.<sup>86</sup> Ford may have felt that if some justice could be awarded in this case, then it was better than losing the case completely. Ford's tactic quickly backfired when James Collins, the defendant's lawyer, argued that under the current indictment of murder the man could not be charged merely with manslaughter. He proposed that only two possible outcomes were warranted as the trial currently stood: either the man be convicted of murder or be acquitted completely. Since the prosecution (Ford) had rescinded the conviction of murder, then it left only the possibility of an acquittal. In

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<sup>85</sup> Ibid., 40-41.

<sup>86</sup> Ibid., 41-42.

the end, the jury and the circuit Judge Richard Young were persuaded by this argument and Ford lost the case.<sup>87</sup> Although it is likely Ford sought for as much justice for the murdered wife as he felt he could obtain, he was unable to achieve it in this case. This may have been due in part to his lack of experience or confidence. It also appears Ford's desire for justice, in whatever amount he could obtain, did not always materialize.

Ford's desire for justice seemed to remain steady as his confidence and experience in the legal system grew. As he continued to be rewarded with more positions of power by his political party, he rewarded those appointments with his continued loyalty to the Democrats. With his time on the bar of Illinois winding down, and his years on the bench about to begin, Ford seemed to view justice and law as the supreme guidelines for life on the frontier of Illinois.

#### Circuit Judge for Peoria and Other Northern Counties: 1835-1837

In January 1835, Ford continued his climb up the career ladder and was appointed to serve as a circuit judge by the Illinois General Assembly. At this time in Illinois, the number of cases on the court dockets was not large enough to warrant each county having its own judges. This meant that several counties would share one judge who would assemble court at one county seat after another in a set circuit across Illinois.

As Ford transitioned from the bar to the bench in Illinois, his belief in upholding the exactness of the law seemed to remain constant. In May 1835, for example, John Beaubien, a

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<sup>87</sup> Ibid., 42. Caton recorded that at first glance Collins argument that manslaughter could not be upheld with the current indictment may have appeared risky. However, Collins understood that if a murder charge was awarded, then he could petition for another trial. Thus, Collins viewed the situation as a win-win regardless of how Ford chose to argue the case. When Ford chose to downgrade the indictment, it essentially meant that both the prosecution and defense were arguing for the same thing. Ford's argument played perfectly into Collins strategy that led to the Irishman's acquittal.

general in the militia, bought part of the reservation where Fort Dearborn, Illinois was for the sum of \$94.61.<sup>88</sup> He had lived on the fort for many years and had gained the approval of the land office for his purchase. The following year, a case was brought up against Beaubien in which Judge Ford ruled that technically Beaubien's claim was valid on the purchase of the land, but that it could not be upheld against the United States unless he filed the appropriate forms with the government.<sup>89</sup> An auction was then held for Beaubien's land wherein members of the community agreed that no one would bid against Beaubien. This being well known, John Collins, the lawyer who had represented the government in the case against Beaubien, swooped in and outbid Beaubien for the land. Even though Ford agreed with the ownership of land belonging to Beaubien, Ford's top allegiance in the case apparently went to the letter of the law being followed completely.<sup>90</sup>

Most of the trials Judge Ford held on the circuit were handled quickly within a matter of hours. An example of this occurred in the fall of 1836 in Kane County when Judge Ford held three days of court wherein "there were five jury trials, four changes of venue granted, fourteen judgments rendered, amounting to five thousand four hundred dollars, twenty suits continued and five dismissed."<sup>91</sup> In a thirteen-day period during the Spring 1836 term in Cook County, Judge Ford heard 230 civil cases, 21 criminal cases, and 13 chancery.<sup>92</sup> Two of the criminal cases were for assault with intent to kill, and both culprits were sent to the state penitentiary by Judge Ford. These court proceedings demanded that decisions be made promptly because the county would not see the judge again for months at a time. Ford was likely tactful enough to realize his

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<sup>88</sup> Carter, "The Early Courts of Chicago and Cook County," 36.

<sup>89</sup> Alfred T. Andreas, *History of Chicago: From the Earliest Period to the Present Time* (Chicago: A.T. Andreas Publisher, 1884), 85.

<sup>90</sup> *Ibid.*, 86.

<sup>91</sup> John M. Palmer, *The Bench and Bar of Illinois. Historical and Reminiscent Vol. 2* (Chicago: Lewis Publishing Company, 1899), 901.

<sup>92</sup> Andreas, *History of Chicago*, 428.

business was ‘results-driven’ and that in every situation, an outcome needed to be reached quickly. Thinking through an issue deliberately and completely was often a blessing of time, which was something that circuit judges had little of. It is probable then, some decisions Ford made were rushed based on lack of time, money, and pressure from citizens.

Although sometimes hurried for time in his decisions as judge, it appears Ford may have often been extreme in the decrees he issued from the bench. In the fall of 1835, a man named Joseph F. Morris, was indicted for murdering Felix Legre 20 miles outside of Chicago. During the trial, Morris’ lawyer ably defended him and showed the slim evidence was wholly circumstantial.<sup>93</sup> Morris was the last person seen with Legre and had been found with a knife that Legre’s boss identified as belonging to his employee. When the jury found Morris guilty, although apparently with some hesitation, Judge Ford sentenced Morris to be hung. The early historian of Chicago who detailed this case wrote, “the substantial justice of the verdict has never been seriously questioned, but conviction on the evidence would be to-day improbable, if not hopeless.”<sup>94</sup> This was only the second murder trial held in the city of Chicago, and it appears Ford was not opposed to setting a precedent of taking drastic measures to prevent future violence. Even in lack of hard evidence against the accused, Judge Ford seemed to follow his instincts and delivered justice accordingly.

Municipal Court Judge of Chicago: 1837-1840

When Judge Ford moved to Chicago in 1837, the city was not yet the booming metropolis it would become in the later part of the 19<sup>th</sup> century. Chicago’s population in that year

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<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

was only 4,170 although it had more than doubled since 1834.<sup>95</sup> While Judge Ford held court in Chicago, the city was beginning to rise in importance in Illinois society and attracted settlers from New England and New York.<sup>96</sup> During this time, six of the state's seven most populous towns in Illinois in 1840 had been incorporated after 1830, with two of those towns being Chicago and Nauvoo. The similarities between Chicago and Nauvoo during this time period were extensive. As municipal court judge of Chicago, Ford's interactions with a large city built mostly by immigrants from New England overnight likely would have given him perspective in how to deal with a community with those specific characteristics.

The municipal court of Chicago was created due to the large amount of business in the Cook County circuit courts.<sup>97</sup> Ford was an obvious choice for the Legislature to appoint to this new position in Chicago due to his extensive experience laboring as both a circuit judicial lawyer and judge in Cook County.<sup>98</sup> Not everyone was thrilled with his appointment, or even with the formation of the court, however. In fact, an attempt was made to close the court in Chicago before it even began. Many of the financial debts that had been issued during the economic boom of the early 1830s were coming due when the economy burst. The dockets at the courthouse were filled with debts totaling over \$20,000,000 and debtors who felt no courts should be held to collect on their financial obligations.<sup>99</sup> Judge Ford, through the help of several convincing lawyers, determined that the municipal court would continue to resolve business matters. Defaulting on state debts was something Judge Ford disagreed with and took to the stump about in his campaign of 1842. He felt strongly about the unsightly mark that would be left on the

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<sup>95</sup> Davis, *Frontier Illinois*, 239.

<sup>96</sup> Ibid.

<sup>97</sup> Carter, "The Early Courts of Chicago and Cook County," 20.

<sup>98</sup> Andreas, *History of Chicago*, 443.

<sup>99</sup> Palmer, *The Bench and Bar of Illinois*. 626-627.



reputation of Illinois and her citizens if they refused to pay their debts.<sup>100</sup> Judge Ford may have wanted to keep the Chicago court active not only for his own employment, but also because of his personal beliefs.

While laboring as judge, it seems Ford chose to side with his friends in trials that he presided at, even if the evidence was lacking. One example of this occurred involving a suit where Ford's associate at the bar, John Caton, was on trial against a former client, Colonel John Strawn. The colonel had previously been represented in court on several occasions by Caton in 1837 through 1838. In the interim year between those two court proceedings, the two men had made some business arrangements wherein Caton would winter some cattle on Strawn's land, and Caton would limit the expenses he would charge Strawn for having represented him.<sup>101</sup> Rather than reach a peaceful agreement, Strawn charged Caton a steep price for wintering his cattle. Soon after this, Caton sent a bill of \$1,000 to Strawn for his legal fees from the previous year, to which Strawn flatly refused to pay such an exorbitant amount. Furthermore, Strawn said he could prove the agreed upon price of Caton's legal fees was \$50.<sup>102</sup>

In preparation of the suit of Caton vs. Strawn, Strawn obtained the deposition of two men who had supposedly overheard the financial arrangements between Caton and Strawn and were ready to swear the agreed upon fee was \$50.<sup>103</sup> The only testimony Caton had was his own word regarding his legal services being worth the \$1,000 he was charging Strawn. After the testimonies and depositions were read to Judge Ford, he ruled that Caton be awarded a sum of \$750 dollars. In this particular case, Ford was inclined to side with his friend and contemporary,

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<sup>100</sup> Ford, *A History of Illinois*, 381.

<sup>101</sup> Caton, *Early Bench and Bar of Illinois*, 83-84. Caton was in a pinch and had little choice other than to work with Strawn due to two separate wildfires that decimated much of Caton's land.

<sup>102</sup> *Ibid.*, 85.

<sup>103</sup> Caton contended in his remarks surrounding the two witnesses that the reason the two testimonies lined up so well was because the two men collaborated on their statements regarding the legal fees between Caton and Strawn. Caton, *Early Bench and Bar of Illinois*, 86.

although the case had little evidence on either side.<sup>104</sup> Years later when leaving his position as judge to accept his nomination as governor, Ford privately promised Caton he would appoint him his successor as one of the nine supreme court justices once his victory in the upcoming election was assured.<sup>105</sup>

#### Associate Judge of the Supreme Court of Illinois: 1840-1842

Judge Ford's tenure on the supreme court was viewed by many as the best time of his entire professional life. John M. Scott, a historian and writer of the early judges in Illinois, lamented that "the State seldom ever had a better *nisi prius* judge," and "it is to be regretted he did not remain in the Supreme Court."<sup>106</sup> Ford received his appointment as a supreme court justice as a result of a change in legislation from the Democratic party that increased the number of supreme court judges from four to nine. All five of the new judges received their appointments due to their affiliation with the Democratic party.<sup>107</sup> As part of this new appointment, these nine justices would be assigned to circuit duty again, and Ford was given the ninth circuit which covered a number of counties in the northern part of the state.<sup>108</sup>

As Ford left Chicago and began again his circuit riding for the court, he would face many difficulties in the counties of northern Illinois. Ford noted "the northern part of the State was not destitute of its organized bands of rogues engaged in murders, robberies, horsetealing, and in

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<sup>104</sup> Ibid., 86-87.

<sup>105</sup> Ibid., 91.

<sup>106</sup> John M. Scott, *Supreme Court of Illinois 1818: Its First Judges and Lawyers* (Bloomington, Illinois, 1896), 322. A *Nisi prius* judge in this quotation means a judge who tries civil cases with a jury.

<sup>107</sup> *Journal of the Senate of the Twelfth General Assembly of the State of Illinois* (Springfield: Wm. Walter, Public Printer, 1840). The additional five judges were Sidney Breese, Stephen Douglas, Walter Scates, Samuel Treat, and Thomas Ford.

<sup>108</sup> Caton, *Early Bench and Bar of Illinois*, 91.

making and passing counterfeit money. These rogues were scattered all over the north: but the most of them were located in the counties of Ogle, Winnebago, Lee and DeKalb. In the county of Ogle they were so numerous, strong, and organized that they could not be convicted for their crimes.”<sup>109</sup> Ford seems to concede the fact that since vagabonds roamed the north in his counties, it was a forgone conclusion true justice in his courts would be hard to obtain. In some instances, he likely allowed certain citizens, including himself, to overstep the bounds of law to curb the problems he perceived were more important than the letter of the law. The irony is that Ford frequently proclaimed his hatred of mobs and others who purportedly abused the law. Yet in certain instances, Ford not only accepted but may have sustained those actions. These cases were some of the last ones Judge Ford heard on the bench and seemed to set the tone for his administration as governor, as will be seen in chapter four.

Due to Ford’s swift and severe decrees from the bench, it is likely he continued to gain recognition in his quest for justice, even in cases that lacked irrefutable evidence. One of these cases occurred in DeKalb County, where a trial was held for a penniless horse thief. There was a complete lack of evidence in the case and the defense looked promising on this point. The last testimony in the trial came from the sheriff who arrested the alleged horse thief. The sheriff testified the man had admitted the crime to him and had confessed his guilt. Judge Ford ruled against the alleged thief, and on the testimony of one man sent the accused robber to the penitentiary for his sentence.<sup>110</sup> It seems Ford’s overarching concern was that justice be administered, even in a case that may have lacked sufficient evidence for prosecution. His desire for justice may have occasionally led him to allow punishment to supersede the parameters of law. This is a unique inconsistency prevalent in a few of Ford’s most important cases.

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<sup>109</sup> Ford, *A History of Illinois*, 321.

<sup>110</sup> Caton, *Early Bench and Bar of Illinois*, 107-108.

One of the best examples of Ford's attempt to balance justice, law, and due process involved the notorious vigilantism of Ogle County in 1841-1842. This case was tried near the end of Judge Ford's tenure on the supreme court, so it is possible it served as a catapult for him into the office of governor.<sup>111</sup> Mob and frontier violence are themes of emphasis throughout Ford's *History*, and his perspectives surrounding them are interesting. He had seen his share of mobs while laboring as an attorney and judge, and he also dealt with them as governor in Hancock and Massac counties. At one point in his book, he wrote that he would "crush forever" all mobs in the country,<sup>112</sup> and then a few pages later conceded that a government which cannot stop a mob of villains probably will not be able to stop a mob of regular citizens who are fed up with villains.<sup>113</sup> In this particular case in Ogle County, it seems Ford had similar problems in being consistent in his views and judgements about the mobs that formed in 1841.

In his *History*, Ford quickly retold the trial in Ogle County in a few short pages without mentioning he presided at the trial.<sup>114</sup> In fact, most of the reminiscences involving this account remain silent on Ford's participation in the trial.<sup>115</sup> The trial began with the arrests of eight men known as the "Prairie Pirates," who had been involved in criminal offenses such as counterfeiting, forgery, horse-stealing, and other thefts.<sup>116</sup> A few of the perpetrators had been tried previously for similar crimes and had easily exploited the weaknesses of the judicial system

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<sup>111</sup> Davis, "Judge Ford and the Regulators," 25.

<sup>112</sup> Ford, *A History of Illinois*, 238.

<sup>113</sup> *Ibid.*, 250-251.

<sup>114</sup> *Ibid.*, 246-249.

<sup>115</sup> Davis, "Judge Ford and the Regulators," 26. Davis pointed out that even Caton who spent four pages of his *Bench and Bar* book detailing the whole trial did so without calling attention to the fact that his friend, Judge Ford, was the one presiding over the proceedings. The importance of this case cannot be overstated, as Caton called it "the most important case...in which I was ever engaged." Caton, *Early Bench and Bar of Illinois*, 95. If Caton felt that this was his most important moment as a lawyer, then why not write about Ford's involvement, especially if Caton and Ford were as close as Caton attempted to get his readers to think in his book?

<sup>116</sup> *Ibid.*, 27. Caton stated that these indicted men were also known murders. Caton, *Early Bench and Bar of Illinois*, 96.

in order to obtain freedom or a lessened sentence by either obtaining a change of venue or jury-packing.<sup>117</sup> All it took to be granted a change of venue was for a defendant to allege prejudice existed from a particular judge, court, or county. This played into the hands of the defendants, for when the trial was reconvened in a different county court many miles away, most witnesses were unable to make the trip and the defendant would be easily discharged. Regarding jury abuse, each defendant was given either 10 or 20 juror challenges in which they could veto who was put on their jury. If a few defendants were tried together, then the defense attorney could eliminate honest jurors to make room for a fellow “pirate” who would be on hand at the trial and were next in line after the honest jurors were vetoed from participating.<sup>118</sup> In this particular case in Ogle, the banditti succeeded in arranging for one of their confederates to be on the jury.

This sympathizer was able to compromise the jury enough to award the minimum sentence of one year in the penitentiary for three of his fellow gang members, while the other defendants were successfully able to secure a change of venue and were never convicted.<sup>119</sup> Because of the weakened jury, Judge Ford took matters into his own hands and ordered that each of those going to the penitentiary were to serve two weeks in solitary confinement.<sup>120</sup> Furthermore, from the bench he reportedly declared that “if his family were molested or his property destroyed while he was away from Oregon [Ford’s home city in Ogle County] on circuit after the Ogle County court session was concluded, he would assemble his friends and take summary vengeance.”<sup>121</sup> This “summary vengeance” was purported to have been

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<sup>117</sup> Ibid., 28.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid. Ford also mentioned that those who went to the penitentiary from this case all broke out and escaped their judgment.

<sup>120</sup> Ibid.

<sup>121</sup> Ford, *A History of Illinois*, 246-247.

threatening to hang them all from the first tree that he came to, “law or no law.”<sup>122</sup> Ford’s declaration from the bench may have been seen by the citizens of Ogle as a rallying cry for vigilantism and violence in their county.

The following months saw just that-- an escalation of violence in Ogle County. Regulators whipped gang members and intimidated leaders into moving out of the area. The gang members retaliated by burning a mill, and on June 27, 1841, murdered Captain John Campbell, a prominent member of the regulators.<sup>123</sup> The Ogle County vigilantes responded two days later by rounding up John and William Driscoll (a father and son prominent in the outlaw group) and held “court” for the killing of their leader.<sup>124</sup> Following this “court” more than 100 regulators condemned the Driscolls to execution by a firing squad.<sup>125</sup> In Ford’s account of the events, he used the words “trial,” “convicted,” “acquitted,” and “sentenced” even though no commissioned judge, jury, attorney, or witness was in attendance.<sup>126</sup> It appears these vigilantes felt they had authority to take the law into their own hands and declare justice without law. The people had seemingly reached a point where they were no longer willing to tolerate the behavior they found offensive in their community and they felt they had obtained permission either

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<sup>122</sup> *The Quincy Whig*, July 30, 1842, <http://archive.quincylibrary.org/Olive/APA/QPL/default.aspx#panel=home> (accessed on August 4, 2017). Ford’s threat of extra-legal action in this case was used later by his opponents as he was running for governor the following year. “When the chosen minister of justice tramples the law under his feet we ought not to be surprised at the extreme of those who are too ready, with such high examples, to spurn its salutary restraint.” *Peoria Register and North West Gazetteer*, July 9, 1841. Quoted from Davis, “Judge Ford and the Regulators,” 30.

<sup>123</sup> Ford, *A History of Illinois*, 247-248.

<sup>124</sup> *Ibid.*, 248. It was widely known that the Driscoll boys, David and Taylor, who had killed Captain Campbell had escaped. Nevertheless, John and William were considered accomplices and were executed as such.

<sup>125</sup> *Ibid.*, 248-249. The plan of the regulators was that if everyone pulled the trigger, then no one would be forced to testify against themselves or any other vigilante member. While each of the 111 men participated in the firing squads (they were divided in two roughly equal groups assigned to execute one of the Driscolls each) at least one unloaded gun was issued to each squad, so that no one could really know who actually killed the “convicted” men.

<sup>126</sup> *Ibid.*, 248. Caton made the same attempt at rationalizing the actions of the regulators by saying the “trial” had a judge, jury, lawyers, and witnesses, and that it was essentially the same thing as a traditional court. Caton, *Early Bench and Bar of Illinois*, 97.

directly or indirectly from their judge. Because of this, it is possible that Ford's words and mindset as a political leader in Ogle County may have led directly to multiple murders.

A few months later, in September 1841, the fall term of the circuit court was held in Ogle County wherein those who killed the gang members were put on trial. The irregular proceedings at the previous term of the court and the summer's bedlam by mobs and vigilantes led to similar occurrences in the fall term. Several jury members were indicted members of the regulators, ironically doing the same "jury-packing" that gang members had done in March which had infuriated Judge Ford. Oddly, the same jury sat for the murders of both men, even though the trials were separate on the docket.<sup>127</sup> Furthermore, Ford was supposed to change the venue if he was personally interested in the outcome, which he likely was because of his residence in the county and also by threatening the now-deceased gang members.<sup>128</sup> Ford, who often proclaimed to follow the letter of the law strictly, apparently chose to ignore the law and let the gang members receive their just dues for years of lawlessness. In his book and in his election against Governor Duncan, Ford said very little about this particular case, even when the latter tried to use it against him. And frankly, Duncan and his constituents focused on other issues rather than Ford's time on the bench. When the matter was eventually brought forth, Ford knew technically the law was not followed, so the only rebuttal he used was that the murders occurred while he was on his circuit outside of Ogle County and that he, therefore, should not be tied to them. Ford, who was largely a pedant for the law, allowed some obvious discrepancies to creep into his courtroom and likely chose to follow his instincts on declaring acquittals for the vigilantes under

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<sup>127</sup> Davis, "Judge Ford and the Regulators," 31.

<sup>128</sup> Ibid., 33. Davis asserted that "Ford's judicial impartiality in the Regulator matter might have been compromised somewhat by his residence in Ogle County and his association with its founding and founders." As Ford had warned the pirates that his home and family be left unmolested during his circuit duties, he may have seen the killing of the Driscolls as a guarantee of protection for himself and the regulators. Thus it seems the outcome of the trial directly affected Ford and his family.

the guise of following the law. Once again, Ford's beliefs about justice seemed to influence his interpretation of the letter of the law.

The delicate balance of choosing not to enforce the full extent of every law can also be illustrated in Ford's beliefs about laws surrounding slavery. During most of Ford's tenure as a lawyer and judge, Illinois was in a state of constant flux regarding the issues of slavery, abolitionism, immigration of blacks, and emancipation. Some of these laws comprised various prohibitions regarding whites hiring, harboring, or marrying a black person. Violations of these respective laws included hefty fines, physical punishments, or jail time for those who were convicted.<sup>129</sup> Describing these laws and the enforcement of them, Ford stated that "the severe points of them are now, and for a long time past have been, a dead letter upon the pages of the statute book, there being no instance, within the memory of the present generation, of putting them in force."<sup>130</sup> Here in his own words, Ford conceded the enforcement of some laws is either impractical or impossible. Therefore, Ford likely understood the limitations of trying to enforce unnecessary laws, especially when society chose not to uphold them.

Throughout Ford's tenure on the bench, he developed qualities and viewpoints he would take with him into the political realm when he was elected governor. These attributes often included being quick-thinking and quick-acting, even with a lack of evidence. One of his main endeavors included his quest to ensure justice was enforced to its full extent. Ford had also shown that he would attempt to delicately balance justice and law, while leaning towards decisions that would benefit most of the people that he represented. Furthermore, Ford's analytical mindset as a judge likely caused him to examine the relationships he had with his friends and political party and to make decisions that would benefit both.

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<sup>129</sup> *Transaction of the Illinois State Historical Society*, 422.

<sup>130</sup> Ford, *A History of Illinois*, 34-35.



## A View of Thomas Ford Through the Eyes of His Contemporaries

A glimpse into how Ford's contemporaries viewed him as a lawyer and judge sheds some light onto how he operated. This viewpoint also helps compare Ford and his methods to his colleagues on the bench and bar in frontier Illinois. James Shields, the editor of Ford's book, said that after Ford was admitted to the bar, he "practiced his profession for many years with very considerable success."<sup>131</sup> Governor John Reynolds agreed, though adding that he felt the mind and character of Ford qualified him for a judge better than his other positions. "He was frank, open, and firm on the bench, and at the same time learned and competent in the exposition of the law. He was a good and sound lawyer, but not the advocate some others were at the bar."<sup>132</sup> Ford had gained a reputation from many of his colleagues as having a sharp mind calculated to enforce justice and to ensure the law was followed.

However, in addition to Ford's abilities, Reynolds wrote that Ford also had a glaring weakness throughout his career. He noticed Ford "*could not resist the temptation* of refined and intellectual society," or "cunning and shrewd hangers-on."<sup>133</sup> Ford's desire to be accepted by the upper echelon of society may have affected his impartiality when it came to enforcing the law, and may have led him at times to sacrifice his integrity for acceptance. Balancing one's own values and effectively operating a frontier state with the many problems that existed in 1840s Illinois was apparently no small task for Ford, who seems to have felt pressure from political allies to function in a certain way.

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<sup>131</sup> Ibid., v-vi.

<sup>132</sup> Reynolds, *The Pioneer History of Illinois*, 376.

<sup>133</sup> Ibid.

Judge Ford was also noted by his contemporaries for the punishments he declared from the bench, as well as his hatred of mobs. Another early Illinois historian and contemporary of Ford's named Joseph Gillespie described Ford as being an "extremely ambitious" man who was noted "by the correctness and impartiality of his decisions, and the strong hand with which he maintained the supremacy of the laws in opposition to those self-constituted bulwarks of society, the 'regulators.' If Governor Ford could have peered twenty years into the future, his wrath against mobs would have been greatly intensified."<sup>134</sup> Judge Ford had a reputation from his peers for dealing harsh pronouncements on mobs and for also believing that physical punishment was a better instructor to the guilty than time spent in the state penitentiary. Judge Caton recalled that "Ford always insisted that it [physical punishment] was the most deterrent punishment ever inflicted for the punishment of crime. He said he had often seen criminals receive a sentence of ten years or more in the penitentiary with apparent indifference, but he had never seen a man sentenced to be whipped who did not perceptibly wince, and that the most hardened would turn pale and shudder."<sup>135</sup> This philosophy can be observed in some of the biggest law cases noted above, when it is possible Ford chose to let mobs take the law into their own hands and issue the severe physical punishments he advocated throughout his career. Ford likely both despised and recognized the roles that mobs played on the frontiers and how they balanced with protecting and limiting the rights of citizens.

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<sup>134</sup> Joseph Gillespie, *Recollections of Early Illinois and Her Noted Men* (Chicago: Fergus Printing Co., 1880), 26.

<sup>135</sup> Caton, *Early Bench and Bar of Illinois*, 54.

## Summary of Chapter 2

While examining the various cases Ford argued and heard in early Illinois legal history, one can begin to see the bearing they likely had on his time as governor. By the time Ford was concluding his tenure on Illinois' bench, it is possible he had already developed patterns that would influence his decisions as future governor of Illinois. One of the most fundamental aspects to glean from Ford's career as a judge is the delicate balance he tried to maintain regarding law and justice. Ford was not necessarily seen in his career as being successful at arguing or proving the law, but merely in enforcing justice and punishment as he saw fit.<sup>136</sup> In his attempts to award justice to Illinois citizens, it is possible Ford occasionally circumvented the law. The irony is that Ford was mostly a fanatic towards the law being followed completely. It seems Ford's justice often came in the form of his quick decisions to decree what he felt was the greater good for Illinois society. It also seems Ford's priority throughout his career in the legal field was to administer justice.

The weaknesses and attributes Ford displayed while serving as a lawyer and judge seemed to remain as Ford transitioned into governor of Illinois. Ford probably felt pressure from a variety of sources including the Democratic party and his associates at the bench and bar. This may have led Ford to occasionally sacrifice his integrity and love of the law for acceptance with society. Considering all the difficulties Judge Ford faced, he appeared to remain consistent in his approach and attitude towards the law, except when the pull of the majority persuaded him otherwise.

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<sup>136</sup> Gillespie noted that Ford was "firm and decided in character, and rather belligerent in disposition." Gillespie, *Recollections of Early Illinois*, 26. John Moses, another 19<sup>th</sup> century Illinois historian agreed with Gillespie's assessment and considered Ford prejudiced, obstinate, and resentful of opposition. Moses, *Illinois, Historical and Statistical*, 449.

### Chapter 3:

#### Governor Thomas Ford Elected and Meets Joseph Smith 1842-1844

In his memoirs of Illinois, Thomas Ford loosely clustered all politicians into two basic classes. The first are “clever, timid, moderate, and accommodating,” who never contradict, make enemies, or stand out. The second group are “bold, sanguine, and decided...and are the men of energy and action.” He believed the latter are often less successful than the former unless they learn the limits of how far they can push political boundaries.<sup>137</sup> It is often difficult to determine where exactly Ford viewed himself in his own assessment of politicians. It is unlikely he was a self-professed Democratic trail blazer, looking for recognition and political fame; but neither was he necessarily accommodating with those who differed in opinion. Rather, it seems Ford adapted from the first group to the second as he gained political experience.

Looking back on his career in office, Ford noted that he “had few if any elements of a successful politician.”<sup>138</sup> Furthermore, he stated that he “was nominated, not because I was a leader, for I was not, but because I was believed to have no more than a very ordinary share of ambition; because it was doubtful whether any of the leaders could be elected, and because it was thought I would stand more in need of support from leaders, than an actual leader would. To this cause, and perhaps there were others, I trace the fact which will hereafter appear, that I was never able to command the support of the entire party which elected me.”<sup>139</sup> By the end of his tenure as governor, Ford felt abandoned by his political party.

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<sup>137</sup> Ford, *A History of Illinois*, 289-290.

<sup>138</sup> Scott, *Supreme Court of Illinois*, 322.

<sup>139</sup> Ford, *A History of Illinois*, 271.

## Election of 1842

Throughout the 1830s and 1840s in Illinois, the elections between the Democrats and Whigs were determined by a relatively small margin of votes.<sup>140</sup> It seems that because of this, both parties had chosen strong candidates to battle through the 1842 gubernatorial issues. The issues on the canvass included the federal bank, abolition, internal improvements, as well as Nauvoo and its city charter-- which was a new political hot button for this specific election. Adam W. Snyder was nominated to run on the Democratic ticket, due in part to his legislative connection to the passage of the Nauvoo charter. Snyder's support of the Saints and their city charter would soon be exploited by the Whigs and their candidate Joseph Duncan.

Soon after Snyder and his lieutenant-governor running mate, John Moore, were selected to run on the Democratic ticket, Joseph Smith wrote an article in the *Times and Seasons* backing Snyder as a candidate. Smith proclaimed that Colonels Snyder and Moore, "are sterling men," and that "with such men at the head of our State Government we have nothing to fear."<sup>141</sup> He also declared, "In the next canvass we shall be influenced by no *party* consideration... We care not a fig for *Whig* or *Democrat*: they are both alike to us; but we shall go for our *friends*."<sup>142</sup> Smith and his followers were apparently choosing to back an individual who had openly supported their community and charter.

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<sup>140</sup> For instance, in the presidential election of 1836, Democrat Martin Van Buren beat Whig candidate William Henry Harrison by 3,149 votes. In the 1840 election the margin was even slimmer, being 1,867 votes. In the Illinois gubernatorial election of 1838, the results were by far the closest of the decade with a difference of less than 1,000 votes in favor of the Democrats. See Walter Dean Burnham, *Presidential ballots, 1836-1892* (Baltimore: Johns Hopkins University Press, 1955), 247-257 and Moses, *Illinois, Historical and Statistical*, 426.

<sup>141</sup> State Gubernatorial Convention, December 20, 1841. Printed in the *Times and Seasons*, January 1, 1842. Accessed through *The Times and Seasons*, Vol. 3, (Independence, Missouri: Independence Press), 651.

<sup>142</sup> Ibid. The Saints had mostly voted for the Whig party and William Henry Harrison in the presidential election of 1840. Therefore, Smith's declaration was informative that the Saints were not politically tied to any particular party, but rather for the candidate that would award them the greatest privileges and protection of rights. This showed that the church's vote could be both gained and lost in the process of politicking.

Following Smith's declaration in the newspaper to support Colonel Snyder, the Whigs quickly responded by "raising a kind of crusade against [the Saints]."<sup>143</sup> The Whig candidate Joseph Duncan and his party leaned heavily on the perceived civil encroachments by the Saints. The ploy of pitting church members against the rest of the state would have likely been a useful tactic to swing the election to the Whigs if fate had not stepped in and dealt a cruel blow. While Duncan and the Whigs were gaining ground in the state and losing ground with the Saints, Snyder became ill and died on May 14, 1842.<sup>144</sup> Scrambling for a replacement, the Democratic convention met on June 7, and Judge Ford was nominated to fill the vacancy on the ticket.

Judge Ford had neither anticipated nor sought after the nomination by his party. He had never campaigned before, and the only political positions he had held were appointments.<sup>145</sup>

Ford confessed as much by acknowledging,

It is true that I had been much in office. I had been twice appointed to the office of State's Attorney, and four times elected, without opposition, to the office of judge by the legislature. I have never been a candidate for the legislature, for Congress, or for any office elective by the people, and had never wanted to be a candidate for such offices. I had never been an applicant for any office from the General Government, and had always avoided being a candidate for any office which was desired by any respectable political friend.<sup>146</sup>

Regarding his abilities, John Moses said Ford did not "possess those qualities which render a candidate personally popular. In fact, if left to secure his own elevation by the stereotyped methods of politicians, he would never have been the choice of his party for governor, no, indeed, for any other elective office."<sup>147</sup> The Democratic party considered Ford merely an

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<sup>143</sup> Ford, *A History of Illinois*, 269.

<sup>144</sup> Some historians have Snyder's date of death as May 15, 1842. Reynolds, *The Pioneer History of Illinois*, 289.

<sup>145</sup> Ford, *A History of Illinois*, 270.

<sup>146</sup> Ibid.

<sup>147</sup> Moses, *Illinois*, 449.

instrument to do their bidding, thus possibly leading to Ford's perception of feeling insignificant to his political allies.<sup>148</sup>

Despite Ford's lack of ambition in politics, his appointment for Snyder's vacancy was likely considered a wise choice for the Democrats, due to the two candidates' similarities. Both men were in their early forties and had immigrated to Illinois from Pennsylvania.<sup>149</sup> Professionally, both men were admitted to the bar and practiced law for a number of years before entering the political sphere.<sup>150</sup> Though the posts they held in the public sector were different, they both had an avid interest in politics and frequented the state legislature.<sup>151</sup> Both men had also participated in the Black Hawk War. In comparing the two Democratic candidates, it seems the party leaders had a certain type of candidate in mind for the 1842 election, and Colonel Snyder and Judge Ford both fit that mold. It also seems the advantage for the Democrats in Snyder's passing, was Ford had no background or affiliation with the Saints and thus could not be politically attached to them. Due to the geographic location of Ford's various judicial responsibilities from 1835-1842, he had largely remained aloof from involvement with the Saints and their charter. If Snyder had lost any ground due to his involvement with Smith's followers, then Ford gained it back as soon as he began canvassing. Ford's popularity grew despite the Whigs tactics of associating the Democrats with the Saints. Throughout the election, the Whigs continued to run a spirited campaign against Ford in the newspapers, calling him the "Lynch

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<sup>148</sup> Ford, *A History of Illinois*, 271.

<sup>149</sup> Snyder was 42 at the time of the Democratic convention, while Ford was 41. Snyder was born in Connellsville, Pennsylvania and Ford was born in Uniontown, Pennsylvania. They are both in Fayette County.

<sup>150</sup> Snyder was admitted to the bar in 1820 and served as prosecuting attorney for a time. By 1830 he had entered the realm of politics and served in Congress as a representative and senator. Reynolds, *The Pioneer History of Illinois*, 288.

<sup>151</sup> Ford was elected as a state attorney and court judge, both positions that Snyder never held. Ford said of himself that he "attended the first session of the Legislature under the State government, at Kaskaskia, in 1818-'19; and has been present at every session from 1825 up to 1847." Ford, *A History of Illinois*, xiii.

Governor,” who was running on the “Mormon Ticket.”<sup>152</sup> In reality, Ford did not support the Saints politically and frequently spoke against them, though not to the extent Duncan did.<sup>153</sup> The outlook of Judge Ford replacing Colonel Snyder as the Democratic candidate likely was not very promising for most church members in Illinois.

In his book, Ford reflected on his election by noting most people cared less about the tenets of the election than they did about the specific political parties involved.<sup>154</sup> Due in part to this, Ford won the election against Duncan in a landslide of over 7,000 votes.<sup>155</sup> The Saints’ votes helped propel Ford to a victory in Hancock County by a count of 1,748 to 711.<sup>156</sup> Though gaining over 1,000 votes in Hancock, the irony is that due to Ford’s large margin of victory, he would have been elected with or without the influence of the Saints’ vote. Interestingly, Ford won his home county of Peoria by less than 200 votes, even though he had served there for a number of years as supreme court judge.<sup>157</sup> Perhaps his recent antics on the bench regarding the handling of the Driscolls and vigilantism influenced those citizens who knew him best to be more cautious in where they cast their votes.

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<sup>152</sup> *The Quincy Whig*, July 30, 1842. This title came to Ford due to his remarks following the murders of the Driscolls. “It is hardly one year, since Thomas Ford made his celebrated speech at Oregon City, that he would follow certain obnoxious individuals and ‘hang them upon the first tree’ he came to, ‘Law or no Law;’ and this it should be borne in mind, was made from the Bench, while acting in a Judicial capacity; the scenes that followed is familiar to all. I mean the lynching and the murder of the Driscoll’s, at Washington Grove. But the after piece is yet to be told, where this same Judge Ford sat and tried, and had acquitted 200 of the ‘gang’ who committed the murder; --than which a more disgraceful farce was never acted in America. Is such a man to be made Governor of this State? Are we indeed to have a ‘Lynch’ Governor? And is the very captain of ‘Lynchers’ to sit in the highest place of our State? God forbid!” Ford’s decisions and political actions as judge certainly had consequences on the election and on his governorship. See also *Sangamo Journal* July 15, 22, 29, 1842; *Shawneetown Illinois Republican* July 30, 1842; or the *Alton Telegraph* July 2, 9, 30, 1842.

<sup>153</sup> *Ibid.* Ford was accused of calling Joseph Smith an “imposter” and “great scoundrel” during the campaign.

<sup>154</sup> Ford, *A History of Illinois*, 277-278.

<sup>155</sup> Moses, *Illinois*, 448. Thomas Ford received 46,901 votes while his opponent, Joseph Duncan received 38,584 votes. The amount of roughly 8,000 votes is again repeated in *History of Peoria County*, McCulloch, 452. Tellingly, as Ford was accused of being the “Mormon candidate for Governor,” he won Nauvoo’s voting precinct 1,037 to Duncan’s 6. It also appears that only about 3,000 church members voted for Ford, rather than the 6,000 to 8,000 that had been predicted. Miller, *Lincoln and His World*, 513.

<sup>156</sup> *The Wasp*, August 20, 1842. Vol. 1 No. 18. Church History Library.

<sup>157</sup> *Ibid.* See also *History of Peoria*, McCulloch, 133. Ford won 950 votes compared to Duncan’s 767.



Regarding the main topics of the 1842 gubernatorial election, Ford seemed poised to succeed at grappling with the banks, the state debt, and the canal. However, his ability to cope with Smith and the Saints would likely end up being the greatest test he would face as governor over the state of Illinois.

#### Governor Thomas Ford Meets Joseph Smith: 1842

During the concluding moments of Ford's inaugural address in December 1842, he delved into the main issue of the recent election: the Saints and their rights. He said that Nauvoo's city charter is "objectionable on many accounts, but particularly on account of the powers granted. The people of the State have become aroused on the subject, and anxiously desire that those charters should be modified so as to give the inhabitants of Nauvoo no greater privileges than those enjoyed by others of our fellow-citizens."<sup>158</sup> At the root of Governor Ford's statement seems to be his belief in egalitarianism-- that each individual should be equal in the eyes of the government. These feelings likely stemmed from Ford's service as judge and attorney, when he commonly expressed his disappointment of the inequality that existed between mobs and ordinary citizens. Rather than increase the citizens' rights outside of Nauvoo to match those of the Saints, it seems Ford felt limiting the privileges enjoyed by Nauvoo residents was the only fair thing to do.

A few short weeks after his inauguration, Governor Ford first came into personal contact with Joseph Smith. Trouble had been rekindled between the Saints and the Missourians in the spring of 1842 when the former Missouri governor Lilburn Boggs was shot in his home. Rumors

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<sup>158</sup> *Journal of the Senate of the Thirteenth General Assembly of the State of Illinois, at Their Regular Session, Begun and Held at Springfield, December 5, 1842* (Springfield, Illinois: William Walters, Public Printer), 44.

swirled about the assassination attempt and Smith and his followers were quickly suspected in the deed. By August an affidavit was signed and an extradition was planned to bring Smith back to Missouri to be placed on trial.<sup>159</sup> Sensing the danger of sending Smith back to Missouri, the Saints began petitioning the outgoing Governor Thomas Carlin for help in protecting Smith from future attempted arrests. Carlin's response was a warrant for his arrest.<sup>160</sup> Understanding Carlin was on his way out of office, Smith hung to the slight chance Ford may be more accommodating in his case, despite the Governor-elect's unfriendly attitude towards the Saints and their leader during the previous election.<sup>161</sup>

When Ford was sworn into office, Smith sent a company of his close associates to Springfield to review his case with Governor Ford and to seek a discharge. Upon reviewing the case, Governor Ford took the matter to the supreme court of Illinois to gauge their opinions on the matter. After receiving their counsel, Ford then wrote to Smith his position on the case. He said the justices "were unanimous in the opinion that the requisition from Missouri was illegal and insufficient to cause your arrest."<sup>162</sup> Despite the supreme court's view on the illegality of the arrest, the justices were uncertain where the limits were of Governor Carlin's previous arrest warrant. Ford therefore advised Smith that, "in as much as you have a sure and effectual remedy in the courts, I have decided to decline interfering. I can only advise that you submit to the laws and have a Judicial investigation of your rights. If it should become necessary for this purpose to repair to Springfield I do not believe that there will be any disposition to use illegal violence

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<sup>159</sup> Andrew H. Hedges, Alex D. Smith, and Richard Lloyd Anderson, eds. *Journals, Vol. 2: December 1841-April 1843*. Vol. 2 of the Journals series of The Joseph Smith Papers, general editors Dean C. Jessee, Ronald K. Esplin, and Richard Lyman Bushman (Salt Lake City: Church Historian's Press, 2011), 129. Hereafter cited as "Joseph Smith Papers, J[vol. #]:[p. #]."

<sup>160</sup> Ibid.

<sup>161</sup> Ibid. In a letter from Wilson Law to Joseph Smith, August 16, 1842, Law advised Smith that, "On the whole I think it would be better for you to absent yourself till the next Governor takes the Chair."

<sup>162</sup> Joseph Smith Papers, J2:215.

towards you; and I would feel it my duty in your case, as in the case of any other person, to protect you with any necessary amount of force from mob violence whilst asserting your rights before the courts, going to and returning.”<sup>163</sup> Trusting Ford’s offer of safety, a fair trial, and a guaranteed release, Smith quickly accepted the offer from the governor and arrived in Springfield on December 30, 1842.

With the assistance of Governor Ford, the entire matter was resolved through the courts within a few days. The governor, along with Justin Butterfield who served as a district attorney, advised and supported Smith throughout the trial and ultimately facilitated his release.

Butterfield’s main argument hinged on the same point the justices had pursued; namely that Boggs’ affidavit did not accuse Smith of fleeing from justice, therefore, it had no power to bring him back to Missouri.<sup>164</sup> Following Butterfield’s defense, the judge ruled the Missouri governor’s actions were unfounded, as was the arrest warrant and the writ of extradition. Smith seemingly was freed from the political circus of Missouri and received a certificate from Governor Ford’s office sustaining the supreme court’s verdict.<sup>165</sup> At this point in their relationship, Smith had little reason to doubt Ford’s honesty or equity towards him or his fellow Saints. Additionally, Ford had shown his predisposition to strictly follow the tenets of law while serving as governor and to examine his interactions with Smith through a legal lens.

This first interaction between Ford and Smith displayed other valuable insights into Ford’s attitude towards the law and dealings with the Saints. When first faced with what to do with Smith, Ford sought counsel from those he trusted in administering the law rather than establish a precedent as a new governor. His confidence in the law and lack of confidence in

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<sup>163</sup> Ibid.

<sup>164</sup> Joseph Smith Papers, J2:106.

<sup>165</sup> Joseph Smith Papers, J2, Appendix 1, Document 12, p. 1.

himself was something that may have surfaced in his legal career and was now on display as governor.<sup>166</sup> Additionally, Ford's propensity to follow the law exactly can also be seen as he weighed Carlin's decree and the justices' counsel.

### The 1843 Extradition Attempt and Congressional Election

The settling of the extradition attempt in 1842 quelled the political storm in Joseph Smith's life for only a brief period. About six months after Ford's inauguration, Missouri Governor Thomas Reynolds contacted Ford to seek his assistance in extraditing Smith back to Missouri to stand trial once again for treason. Ford promptly responded by writing to all constables and sheriffs in Illinois the following: "I, Thomas Ford, governor of the state of Illinois, pursuant to the constitution and laws of the United States and of this state, do hereby command you to arrest and apprehend the said Joseph Smith, Jun., if he be found within the limits of the state aforesaid, and cause him to be safely kept and delivered to the custody of Joseph H. Reynolds, Esq."<sup>167</sup> Although Governor Ford had sided with Smith regarding the previous extradition attempt, it seemed like he chose to view the 1843 petition from Missouri as a completely new case. In his eyes, he may have been following the requirements of law as he understood them, but to Smith it likely appeared that any goodwill he had with the governor from the previous winter had disappeared. Ford's confidence in the judicial system also seems to be shown here as he trusted the correct course of justice would be obtained through the courts.

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<sup>166</sup> Ford called this type of leader "a pusillanimous man," or a man without courage or determination. He went on to explain that when a man is elected by his political party with the intention of the party leaders ruling through him, then he "is ever disposed to submit to this kind of influence and dictation. He calls it consulting his party when he consults only a few leaders, and this he is obliged to do, or find himself without the power to govern." Ford, *A History of Illinois*, 272. It appears in this first case of Ford and Smith's interaction that Ford followed this similar pattern.

<sup>167</sup> Joseph Smith Papers, Vol. D-1, 1596.

A few days later, Joseph Smith was arrested while he and his wife were visiting some of Emma's family in Lee County, Illinois. Through a series of fortuitous events, Smith was able to procure support, lawyers, a writ of habeas corpus, as well as a hearing at the Nauvoo municipal court that quickly exonerated him from the current indictment.<sup>168</sup> Though this new extradition attempt once again failed on a technicality, it pulled Ford and Smith deeper into political interaction.

Joseph Smith's legal support in this matter came by way of two congressional hopefuls who were competing for the church members' votes.<sup>169</sup> One of the two men, Whig candidate Cyrus Walker, was an old acquaintance of Joseph Smith for whom Smith had previously promised his vote should Walker ever choose to run for office.<sup>170</sup> It seems like the majority of church members were willing to follow Smith's lead and vote Whig as well, especially in light of Ford's recent choice to entertain Governor Reynolds' request for Smith's extradition.

Shortly before the election however, Hyrum Smith and Jacob Backenstos, a local Democrat sympathetic to the Saints, petitioned the Saints to support Democrat Joseph Hoge. Backenstos had traveled to Springfield with the intention of dissuading Ford to call out the militia to arrest Smith, but he was unaware the governor had previously made up his mind to leave the militia out of the matter altogether.<sup>171</sup> When Backenstos arrived in Springfield, Ford was out of town so Backenstos settled for a letter from Ford's representative. The letter assured

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<sup>168</sup> Ibid., 1596-1599.

<sup>169</sup> George R. Gaylor, "The Mormons and Politics in Illinois: 1839-1844," *Journal of the Illinois State Historical Society* 49, no. 1 (1956): 56-57. See also Bushman, *Rough Stone Rolling*, 504-508.

<sup>170</sup> Andrew H. Hedges, "Extradition, the Mormons, and the Election of 1843," *Journal of the Illinois State Historical Society* 109, no. 2 (2016): 132. Additionally, Illinois judicial historian John Palmer wrote that Cyrus Walker had at least two letters from Joseph Smith that predated his arrest in Dixon, Illinois that urged Walker to run for office. This also shows that Smith had possibly already made up his mind to vote for Walker whether or not Walker chose to help Smith legally. Additionally, Palmer ended the account of this election in his book by saying that Smith encouraged the Saints to vote Democrat once Smith obtained from Ford a promise to end any further extradition attempts back to Missouri. Palmer, *The Bench and Bar of Illinois*, 738-739.

<sup>171</sup> Ford, *A History of Illinois*, 316-317.

Smith the governor would still treat him fairly and not use the militia to arrest him, despite how the Saints decided to vote.<sup>172</sup> The problem with this promise was that Ford apparently was unaware of this exchange.<sup>173</sup>

Unhappy with the verdict awarded Smith through the Nauvoo municipal court, Reynolds persisted that Ford again use any means possible in pursuing Smith's extradition back to Missouri. Possibly beginning to understand a governor is politically charged in all his decisions, Ford may have begun to see the situation as more than a case in law. Seeing perhaps what would be best for him and his political party, Ford coolly refused the repeated persuasions of Joseph Reynolds to call out the militia to arrest Smith.

With the dangerous prospect of the Saints supporting the Whigs in the next election, Ford wrote a letter to Reynolds citing his desire to hold off on further action until he received more information about the situation.<sup>174</sup> Because of this choice, Ford was accused by the *Quincy Whig* of delaying the Missouri writ until after the election, in essence blackmailing the Saints to vote for the Democrats in August.<sup>175</sup> However, both the Saints and Ford denied the allegations.<sup>176</sup> Despite the mounting accusations and political pressure Ford faced, his calculated process for gathering information yielded a number of affidavits from Nauvoo that helped him make an informed decision on how to proceed politically and legally with Smith.

Although Ford initially aided Missouri's second attempt to extradite Smith, once the courts acquitted Smith, he felt he had fulfilled his role as governor.<sup>177</sup> It seems Ford chose once

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<sup>172</sup> The Joseph Smith Papers, Letter from Mason Brayman, July 29, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-from-mason-brayman-29-july-1843/7#full-transcript> (accessed August 5, 2019).

<sup>173</sup> Ford, *A History of Illinois*, 316-318. See also Greg Whitman and James Varner, "Sheriff Jacob B. Backenstos: 'Defender of the Saints,'" *Journal of Mormon History* 29, no. 1 (2003): 155.

<sup>174</sup> Joseph Smith Papers, Vol. E-1, 1692.

<sup>175</sup> George R. Gaylor, "Attempts by the State of Missouri to Extradite Joseph Smith: 1841-1843," *Missouri Historical Review* 58, (October 1963): 35.

<sup>176</sup> "Illinois and Missouri," *Times and Seasons* 4 (August 15, 1843): 292.

<sup>177</sup> Ford, *A History of Illinois*, 317.

again to analyze this issue through his legalistic paradigm. He likely felt he followed the full requirements of law as he saw them, and he was now content to drop the case against Smith entirely. Interestingly, Governor Ford chose not to hold another trial for Smith's extradition—even though he disagreed with the way Nauvoo's judicial system handled the issue. However Ford may have felt about Smith at this point in their relationship, he chose not to let it influence his decision to keep himself and Illinois out of the problems between the Saints and Missouri.

In retrospect, Ford wrote in his *History*, “The governor in doing what he had done had fulfilled his whole duty under the constitution and the laws. And because Smith had not been forcibly rescued, but had been discharged under color of law by a court which had exceeded its jurisdiction, and it appeared that it would have been a dangerous precedent for the governor, whenever he supposed that the courts had exceeded their powers, to call out the militia to reverse and correct their judgments.”<sup>178</sup> A number of important facets of Ford's viewpoints can be gleaned from the extradition attempt of 1843. One of which is that although Ford may have disagreed with the judgment of the court in Nauvoo, he was unwilling to use the state militia to do anything about it. A similar situation would occur in June 1844, except Ford altered his beliefs and used the threat of militia in an attempt to reverse the judgments of the Nauvoo court regarding Smith and the charge of inciting a riot in the destruction of the *Nauvoo Expositor*.

A second outcome of this situation is that Ford alienated many of the Saints in Nauvoo due to his entertaining Governor Reynolds' demand of extradition. Smith in particular was frustrated with the governor and prophesied that Ford had “damned himself politically” and that “his carcass will stink on the face of the earth food for the carrion crow and turkey buzzard.”<sup>179</sup> Furthermore, Ford probably did not see his attempts to remain legally impartial as governor also

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<sup>178</sup> Ibid.

<sup>179</sup> Joseph Smith Papers, J3:289.

angered some Illinois citizens who were hoping he would come down swiftly against the Saints. Ford believed he had once again strictly followed the law, even if Nauvoo's court had not. Ford concisely told Reynolds, "Every thing had been done on my part which the law warranted me in doing."<sup>180</sup> Governor Ford's actions from this particular extradition case appear typical through the end of Joseph Smith's life. Not only did Ford view his own actions as "concise, informed, and highly legalistic," but he likely was beginning to see them as political.<sup>181</sup>

#### Other Illinois Issues Ford Faced: 1842-1844

Besides the Saints, Ford dealt with several other issues during the first few years of his tenure as governor of Illinois that probably challenged his capacities and illustrated his values. One such issue that was on the canvass during his election and was still prevalent for years following his administration was the excessive state debt and the status of the state banks. Ford said, "Of all the local questions calculated to influence elections, that of the banks, I believe, was the only one which was generally considered."<sup>182</sup>

Ford's view on the Illinois state debt was similar to his view of a judge toward criminals. Many of Judge Ford's pronouncements from the bench seemed to come through his unflinching desire for justice. In the bank matter, Ford was very much against repudiation. He thought this act of defaulting on the debts incurred would dishonor the State of Illinois. Ford likely felt a person (or state in this case) should be willing to face the consequences of their actions. It seems he felt the results of justice were a natural outcome of a person's choices. Therefore, when the state was faced with the negative consequences of excessive spending and subsequent debt, the

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<sup>180</sup> Joseph Smith Papers, Vol. E-1, 1692.

<sup>181</sup> Hedges, "Thomas Ford and Joseph Smith," 110.

<sup>182</sup> Ford, *A History of Illinois*, 282.



governor felt only one option was acceptable: pay the debt.<sup>183</sup> Throughout his administration, Ford focused on paying Illinois' excessive debt. In 1848, the state's new constitution followed Ford's counsel and levied an annual tax with the intention of doing so. The debt was finally relieved about 20 years following Ford's death.<sup>184</sup>

Although Ford instituted measures to absolve Illinois' debts, the people had long fought against repayment. Ford had often described people in various parts of his state as being tax-hating, unprincipled, rebellious, and conniving, and noted the government represented the specific makeup of the people.<sup>185</sup> "A government is always a type of the people over whom it is exercised, so it will be found that when the people are less enlightened and virtuous, the means of governing them will be less intellectual."<sup>186</sup> Governor Ford believed his government was weak due to the people who lived in his state, and he lamented his decisions on their behalf were subsequently weak. In this matter, Ford seemed to accept the role of the second class of politician of being bold and decided in action, despite a lack of support from the majority of the people.<sup>187</sup>

Another issue Ford grappled with was the balance of power between the government and the people. Ford's Jacksonian principles appeared to demonstrate themselves in his belief that

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<sup>183</sup> The debt that Illinois owed was almost \$14,000,000 with insufficient revenue and no money in the state treasury. Ford, *A History of Illinois*, 278.

<sup>184</sup> Ford's platform for governor is summed up in a letter to a friend recorded in the *History of Peoria* by David McCulloch, 452. "Briefly stated, his principles ran as follows: He was in favor of a sub-treasury, opposed to all banks, State and National, and in favor of the constitutional currency of gold and silver coin; in favor of a tariff for revenue only; opposed to the distribution of the sales of public lands; opposed to contracting debts by either State or Nation; in favor of adopting all proper means on all proper occasions to reduce the State debt; and in favor of conventions to nominate candidates for office. In the great contest between Field and McClernand for the office of Secretary of State he believed that Governor Carlin had the right to appoint his own Secretary, and he (Ford) should claim the same right for himself. Believing that Van Buren had been unfairly beaten in 1840, he was in favor of his nomination for the Presidency in 1844."

<sup>185</sup> See chapter 1 footnote 25 about Isaac Galland and chapter 2 footnote 109 about the citizens of DeKalb County.

<sup>186</sup> Ford, *A History of Illinois*, 273.

<sup>187</sup> See chapter 3 footnote 135.

people are prone to abuse rights when they are given too many of them.<sup>188</sup> It appears Ford often fought against the Jeffersonian principle of transferring power to the masses, despite his acceptance that majority always rules in society.<sup>189</sup> Governor Ford's dislike of these principles likely stemmed from his reluctance to take power from the judicial and executive branches that would weaken a strong central government. The irony is Jacksonian Democrats like Ford often desired more people participate in government, which of course individual city charters and local laws enabled. It is more likely Ford enjoyed the decision-making power that came from being judge and governor, and disliked the idea that each city's laws may alienate citizens in a state. Ford seemed to believe this would weaken the centrality and power that a collective state enjoyed.

Governor Ford's trust in courts and government can also be seen in other legal cases he weighed in on outside of the Saints. In these cases, Ford apparently maintained his extreme desire for the exactness of the law to be followed as he had shown during his judgeship days. During the Legislative session in 1842-1843, an act was passed that increased the punishment for manslaughter, which had previously only carried a maximum sentence of three years and a \$1,000 fine.<sup>190</sup> Due to the excessive changes in the new manslaughter law, much of the old law had to be repealed. In the interim between the repeal of the old law and the passage of the new, a dispute broke out between two neighboring farmers about property lines, fences, and cattle. One of the two men, James Phillips, had trespassing cattle on his neighbor's land. His neighbor began chasing the cattle with his dog and "setting his dog on them with great vehemence," whereupon Phillips shot and killed his neighbor.<sup>191</sup>

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<sup>188</sup> Ford, *A History of Illinois*, 265.

<sup>189</sup> Bushman, *Rough Stone Rolling*, 412. See also Ford, *A History of Illinois*, 249-250.

<sup>190</sup> Caton, *Early Bench and Bar of Illinois*, 135.

<sup>191</sup> *Ibid.*, 136.

Since both men were well known in the area, the case created quite a stir in the community. The defense of Phillips argued the killing was accidental and the jury's verdict should be that of manslaughter.<sup>192</sup> At the conclusion of the trial, the jury agreed with the defense, whereupon the circuit judge (who happened to be Ford's friend John Caton) discharged Phillips. Judge Caton decreed that since the manslaughter law had been repealed absolutely and "the new statute could not have a retroactive effect, there was no law now in existence providing for the punishment of manslaughter."<sup>193</sup> The county went into an uproar and numerous letters were written to Governor Ford to remove his newly appointed judge from office. Ford matter-of-factly wrote back to the people and rebuked them for their clamor, saying they should "congratulate themselves for having a judge who had the courage, in spite of threats and denunciations, to declare the law as it was."<sup>194</sup> Ford's view of justice likely came by way of following the letter of the law, even to the possible detriment of society. In this particular case, Ford may have also been backing a political friend as he had done with Caton in the past.<sup>195</sup>

#### Change on the Horizon: Separation of Ford and Smith

Following the congressional election of August 1843 where the majority of Saints stayed with their political pattern of voting Democrat in Nauvoo, Ford wrote, "From this time forth the whigs generally, and a part of the democrats, determined upon driving the Mormons out of the State; and *everything connected with the Mormons became political*, and was considered almost entirely with reference to party."<sup>196</sup> As Ford continued to interact with the Saints for the rest of

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<sup>192</sup> Ibid.

<sup>193</sup> Ibid., 138.

<sup>194</sup> Ibid.

<sup>195</sup> Caton, *Early Bench and Bar of Illinois*, 86-87. See also pages 30-31 in this thesis.

<sup>196</sup> Ford, *A History of Illinois*, 319.

1843 and into 1844, it seems he was far more politically chilly with them than he had been in the past. Ford also possibly understood those in his party who had petitioned for his election were beginning to distance themselves from him, especially the more he connected himself in any way to the Saints. From this point on, Governor Ford seemed more premeditated and resolute in his opinions and demands than he had been before in office. Charles Ballance, an Illinois contemporary of Ford's, recalled a long conversation about politics and power the two of them had. Ballance said Ford "avowed the doctrine that a man, to be able to benefit his country, must get into power, and to do this he must adopt such means as would put him into power."<sup>197</sup> If Ford felt used or abandoned by the Democrats during his time as governor, then he likely used techniques of exploitation and vacillation in his attempts to suppress the immense political problems that were rising in his state to appease both the Saints and their enemies.

Following the congressional election of 1843 and into the beginning of 1844, Smith and Ford interacted periodically through letters. Some of these first letters came on the heels of the congressional election in August 1843. Despite Smith's earlier prediction of Ford turning into political fodder, Smith's anger towards Ford did not last long. On August 6, 1843 Smith said, "It is my settled feeling that if Governor Ford erred in granting a writ against me it is of the head and not of the heart and I authorize all men to say I am a personal friend of Governor Ford."<sup>198</sup> Of the two Illinois governors and the two Missouri governors who had interacted with Smith during his three extradition cases, only Ford had sided at all with the Saints. And in the two cases involving Ford, he had protected Smith with his interpretation of the law. To Smith and the Saints, they seemed to believe they had found the political protector they had sought for since

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<sup>197</sup> Ballance, *The History of Peoria*, 253.

<sup>198</sup> The Joseph Smith Papers, Discourse of Joseph Smith as reported by Willard Richards, August 6, 1843, <https://www.josephsmithpapers.org/paper-summary/discourse-6-august-1843-as-reported-by-willard-richards/4#full-transcript> (accessed August 8, 2019).

New York. Unfortunately for them, they likely did not see the governor's willingness to help them had reached its limit.

Probably hoping to keep himself politically protected by Ford, Smith wrote to him and enclosed recent documents regarding Missourian feelings about attacking Nauvoo, impeaching Ford, and killing Smith. At the conclusion of these documents, he wrote, "It was thought advisable to give your Excellency the privilege of seeing and knowing for himself. Our people as patriots, feel bound to maintain your honor and reputation, as well as that of the state, in company with that of their own; and when any danger actually threatens, if your Excellency send the necessary order, we will endeavor to defend the honor of the governor, of the state, and of Nauvoo, according to the law of the land."<sup>199</sup> Smith seemed thankful for Ford's choice to leave the militia out of the most recent extradition affair and was attempting to determine the governor's feelings regarding yet another potential extradition effort. Smith also possibly attempted to tie his future with Ford's by acknowledging that Missouri was against the governor now, too. When Ford replied in mid-September in a dismissive four-sentence note, he waived off any chance of an invasion, and chose not to address the associations Smith had implied.<sup>200</sup> Smith wrote back again a few days later and reminded Ford of the threats surrounding the Saints that Ford had dismissed in his previous letter. At the conclusion of the letter, Smith once again reaffirmed his dedication to Ford and also reminded him of the Saints' constitutional rights that Ford had previously protected through his interpretation of the law.<sup>201</sup>

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<sup>199</sup> The Joseph Smith Papers, Joseph Smith Letter to Thomas Ford, August 21, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-to-thomas-ford-21-august-1843/4#full-transcript> (accessed August 6, 2019).

<sup>200</sup> The Joseph Smith Papers, Thomas Ford Letter to Joseph Smith, September 13, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-from-thomas-ford-13-september-1843/4#full-transcript> (accessed August 6, 2019).

<sup>201</sup> The Joseph Smith Papers, Joseph Smith Letter to Thomas Ford, September 20, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-to-thomas-ford-20-september-1843/2#full-transcript> (accessed August 6, 2019).

A few months later on December 6, Smith wrote Governor Ford again to seek his perspective on how to advance against some Missourians who had kidnapped two members of the church. Expressing his determination to rely on Ford, he inquired whether or not he should call out the Nauvoo Legion in an attempt to rescue the victims.<sup>202</sup> Governor Ford's response to Smith seemed to be straight forward and even more distant than his September correspondence. Ford flatly refused to support the Nauvoo militia's involvement in the case. Using the same reasoning he sent to Governor Reynolds when pressed to use the militia to go after Smith the previous summer, Ford argued that the grounds of calling out the militia must include a case to repel an invasion, suppress an insurrection, or some type of emergency, and not merely to punish an individual crime. Furthermore, Ford wrote, "The prevention and punishment of individual offenses has been confided by the constitution and laws of this State to the judicial power, and not to the executive.... Any other powers to be exercised by the Governor would be to make him a dictator and a despot."<sup>203</sup> The irony is in the following summer Governor Ford threatened to arrest and punish Smith for a perceived individual crime by using the state militia. Ford then warned Smith to act peacefully towards Missouri, and that if Missouri tried once again to extradite Smith, he would then look into the evidence Smith had previously supplied him.<sup>204</sup> Though technically legal in his reasoning, Ford seemed distant in his response. Perhaps Ford was making it known there was a limit to his willingness to assist the Saints. Despite the coolness from Ford, Smith kept his confidence that Ford could continue to be used as a political ally.

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<sup>202</sup> The Joseph Smith Papers, Joseph Smith Letter to Thomas Ford, December 6, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-to-thomas-ford-6-december-1843/2#full-transcript> (accessed August 6, 2019).

<sup>203</sup> The Joseph Smith Papers, Thomas Ford Letter to Joseph Smith, December 12, 1843, <https://www.josephsmithpapers.org/paper-summary/letter-from-thomas-ford-12-december-1843/4#full-transcript> (accessed August 6, 2019).

<sup>204</sup> Ibid.

Hostilities in Hancock County increased to the point where Governor Ford published a letter admonishing both sides to be peaceful. He also warned the first “transgressors” would receive the full extent of his authority.<sup>205</sup> Again, hoping to stay in the governor’s good graces, Smith published an article in the *Nauvoo Neighbor* expressing his willingness to follow Ford’s demand for peace and civility. Perhaps in an effort to remind Ford of how he felt about him, Smith said, “Governor Ford has exalted himself as a mediator, patriot, lawyer, governor, peacemaker, and friend of all, not only to magnify the law and make it honorable, but also in pointing out the part of peace. Such is what the Latter-day Saints have ever sought at the hands of those in authority.”<sup>206</sup> Unfortunately, it seems the closer the Saints tried to get to Ford, the more he tried to push them away.

### Summary of Chapter 3

Despite Joseph Smith’s compliment of Ford being a mediator and peacemaker between citizens in Illinois, animosity between the Saints and their neighbors continued to grow in Hancock County. This tension came from individuals and parties both without and within the church. Ford’s promise to use his authority against those who violated what he deemed the law would come to fruition within the next few months as libel continued to spread as a wildfire on the prairies of Hancock County, Illinois.

By the time Ford was reaching the halfway mark of his time in office, he had significant interactions and political problems relating to Joseph Smith and the Saints. On more than one occasion, Ford had given Smith legal advice and had used his interpretation of law to rescue him

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<sup>205</sup> *Warsaw Signal*, “Thomas Ford,” February 14, 1844. See also Bushman, *Rough Stone Rolling*, 511.

<sup>206</sup> Joseph Smith Papers, J3:442.

from tense circumstances. Due in part to these interactions, Smith had little reason to mistrust Governor Ford's advice. Perhaps due to his political position, or perhaps to the new paradigm of each choice carrying political ramifications, Ford began to view the Saints as a lose-lose situation.

The relationship between the two leaders apparently began to change positions from where it had begun the previous year. During Governor Ford's first few months in office, there was still some political niceties Ford seemed willing to show Smith, almost as if he was seeking continued political support from him. By the end of 1843, Smith seemed to be the one seeking continued political alliance with Ford. To the Saints, Governor Ford was to be the high-level political figure who had finally come to their aid, and Smith likely was not willing to cast him aside-- despite Ford's recent distance.<sup>207</sup> Rather than cause more political problems, Smith apparently was attempting to stay in the good graces of the law and the governor. It is also possible Ford had continued to embrace a political awareness the Saints were not popular in the State.

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<sup>207</sup> Hedges, "Extradition, the Mormons, and the Election of 1843," 139-140.



## Chapter 4: Countdown to Carthage

On June 7, 1844, a newspaper called the *Nauvoo Expositor* printed 1,000 copies of its first and only issue that derided Joseph Smith. The *Expositor's* single edition became one of the catalysts that would lead to the martyrdom of Smith and his brother, Hyrum. On June 8 and 10 city council sessions were held under the direction of the mayor of Nauvoo, Joseph Smith, that determined the printing office was a “public nuisance” and the “printing establishment and papers be removed without delay.”<sup>208</sup> Outraged by the city council’s decision, the owners of the *Nauvoo Expositor*, who were excommunicated Church members, sought redress from the Hancock County court.<sup>209</sup> This redress eventually led to an arrest warrant for Smith and 17 others for the charge of inciting a riot.

On June 24, in the late afternoon, the Smiths left Nauvoo for the last time and arrived in Carthage at midnight. The next morning, they were arrested for treason and imprisoned in Carthage Jail.<sup>210</sup> On the afternoon of June 27, an armed band of about 100 men with blackened faces raced past the guards at the jail to murder the prisoners. As the assailants stormed the stairs, the captives braced the door with their bodies. The mob unleashed a torrent of bullets into the room, eventually killing the Smiths. Thus, despite promises of peace and safety from Governor Thomas Ford, the Smiths died as martyrs in Carthage Jail.<sup>211</sup>

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<sup>208</sup> Joseph Smith Papers, Vol. F-1, 83.

<sup>209</sup> The *Nauvoo Expositor's* contributors were William Law, Wilson Law, Charles Ivins, Francis M. Higbee, Chauncey L. Higbee, Robert D. Foster, and Charles A. Foster. All six men had been recently excommunicated in April and May 1844.

<sup>210</sup> Oaks and Hill, *Carthage Conspiracy*, 16. The charge of treason was given for declaring martial law in Nauvoo and in calling out the Nauvoo Legion.

<sup>211</sup> Ford’s promise of safety came from a letter written to Smith on June 22, 1844.

## The Rise and Fall of the *Nauvoo Expositor*

One of the main reasons for the incarceration of Joseph Smith in Carthage Jail was because of his involvement in the destruction of the printing press that published the *Nauvoo Expositor*. After the destruction of the *Nauvoo Expositor*, the owners fled to Carthage and issued a complaint against Smith and the other members of the Nauvoo city council for the destruction of their press and for committing a riot. A writ was issued from Carthage that said the accused needed to be brought before a justice of the peace to be dealt with according to the law.<sup>212</sup> Smith and the other members of the city council exercised their right to appear before any justice of the peace and obtained a writ of habeas corpus in Nauvoo, which led to the charges being dropped by the municipal court of Nauvoo. John Taylor wrote that the enemies of the Saints in Hancock County were outraged and viewed it as “a refusal to submit to law,” and “professed to believe that we were in open rebellion against the laws and the authorities of the state [which] excited them to mobocracy and violence.”<sup>213</sup> The complaints of the citizens in Hancock County led to Governor Ford’s involvement in the proceedings.

Governor Ford vehemently decried the Nauvoo city council’s decision to destroy the *Expositor*’s press, as well as Smith’s subsequent acquittal in the matter.<sup>214</sup> Part of the reason Ford was opposed to the destruction of a newspaper office may have been because his first job following his legal studies was running a political paper.<sup>215</sup> In his concluding letter to Smith, Ford wrote, “I now express to you my opinion that your conduct in the destruction of the press

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<sup>212</sup> Joseph Smith Papers, Vol. F-1, 87-88.

<sup>213</sup> Taylor, *Witness to the Martyrdom*, 39. Thomas Sharp, editor of the *Warsaw Signal*, and prevalent member of the Anti-Mormon political party wrote in his newspaper, “War and extermination is inevitable! Citizens ARISE, ONE and ALL!!! -- Can you stand by, and suffer such INFERNAL DEVILS!! to ROB men of their property and RIGHTS, without avenging them. We have no time for comment, every man will make his own. LET IT BE MADE WITH POWDER AND BALL!!!” *Warsaw Signal*, June 12, 1844.

<sup>214</sup> Ford, *A History of Illinois*, 323.

<sup>215</sup> *Historical Encyclopedia of Illinois*, 397. See also chapter 2 page 22 of this thesis.

was a very gross outrage upon the laws and the liberties of the people....Such is my regard for the liberty of the press and the rights of a free people in a republican Government that I would shed the last drop of my blood to protect those presses from any illegal violence.”<sup>216</sup> Combined with his legal career, Ford’s time in the printing industry may have fostered some of his strong beliefs in freedom of speech and the press.

Despite his strong feelings about the *Expositor*, Ford’s main concern seems to hinge upon the newspaper owners not being awarded a fair trial with a called jury or sworn witnesses. Once he heard about the circumstances surrounding the trial for the *Expositor’s* owners, he concluded, “It was altogether the most curious and irregular trial that ever was recorded in any civilized country.”<sup>217</sup> The irony in Ford’s statement is he was directly tied to possibly the most infamous sham trial in Illinois history with imposters posing as judges, jurors, and executioners during his time on the supreme court in Ogle County.<sup>218</sup> In comparing the imposters “court” and the Nauvoo city council’s decision to destroy the press, it seems Ford’s view was the imposters had more closely followed the law.

Due in part to Ford’s extensive past serving in the courtroom, he had likely come to expect that certain criteria should prevail in all courts. Most municipal courts in Illinois at that time usually dealt with cases regarding business transactions or misdemeanors, rather than criminal case law. When Ford first heard the verdicts being declared from Nauvoo’s municipal court, he may have compared the irregular aspects of it to the Chicago courts of his past. During the late 1830s and early 1840s, Chicago and Nauvoo had many similarities including population size, growth, and demographics, so Ford might have expected the two municipal courts to

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<sup>216</sup> Joseph Smith Papers, Vol. F-1, 141.

<sup>217</sup> Ford, *A History of Illinois*, 323.

<sup>218</sup> Davis, “Judge Ford and the Regulators.” See also chapter 2 pages 32-36 of this thesis.

behave more similarly than they did. Additionally, he may have felt Smith's ruling as mayor against the *Expositor* exceeded his legal jurisdiction.<sup>219</sup>

Although Smith had been discharged through a habeas corpus hearing, he still petitioned Governor Ford for legal support-- appealing to him as both judge and politician.<sup>220</sup> Smith and the Saints were not the only ones who were seeking the governor's political power, however. On June 16, a committee of Carthage citizens arrived in Springfield also requesting Governor Ford's support.<sup>221</sup> Because of what he heard, he decided to investigate the matter by going to Carthage himself, a choice that had drastic bearings on the outcome of Illinois history.<sup>222</sup> If Ford had chosen to stay in Springfield, it is unlikely Smith would have been willing to go to Carthage for trial. Previously, Smith had agreed to attend a trial in Springfield because he knew Ford was in the capital and had promised him safety.<sup>223</sup> Therefore, one possible reason Smith eventually left Nauvoo and went to Carthage was because of Ford.<sup>224</sup>

Since the loudest clamor for war came from Carthage, and since it was where court convened in Hancock County, Ford determined to go there first.<sup>225</sup> His two main priorities were to keep the peace and ensure the matter involving Smith was justly resolved through trial in the county seat.<sup>226</sup> Ford declared, "My object in visiting Hancock was expressly to assist in the execution of the laws, and not to violate them, or to witness or permit their violation."<sup>227</sup>

Throughout most of his professional life, Ford was well accustomed to riding into a city and

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<sup>219</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

<sup>220</sup> Hedges, "Thomas Ford and Joseph Smith," 120.

<sup>221</sup> Ford, *A History of Illinois*, 324.

<sup>222</sup> Ibid.

<sup>223</sup> Joseph Smith Papers, J2:106. See also chapter 2 page 50 of this thesis.

<sup>224</sup> Joseph Smith Letter to Thomas Ford, June 23, 1844. In this letter, Smith agreed to go to Carthage to meet with Ford and present his side of the story to him. Smith also asked that Ford send his "posse" to escort the Smiths' and their witnesses to Carthage.

<sup>225</sup> Ford, *A History of Illinois*, 324.

<sup>226</sup> Ford, *A History of Illinois*, 324-325.

<sup>227</sup> Ford, *A History of Illinois*, 331.

making rapid legal decisions that were occasionally rushed due to time restraints and pressure from citizens.<sup>228</sup> Thus, once in Carthage, Ford seemed determined to quickly solve the most immediate problem—the destruction of the *Expositor*. It is likely that in Ford’s mind this case was clear, and the pressure he was already receiving from the church’s enemies in Hancock strengthened his resolve to force Smith to court in Carthage.

### Thomas Ford and Escalation in Hancock County

Upon his arrival in Carthage on June 21, Governor Ford saw the large militia gathering to enforce due process against Smith and Nauvoo. Constables and brigade generals had assembled men from surrounding counties, as well as from the city of Warsaw.<sup>229</sup> Meanwhile, the Carthage Greys were also placed on patrol in the city and most of the militias were preparing themselves for a march on Nauvoo. Governor Ford’s first action in Carthage was “to place all the militia then assembled, and which were expected to assemble, under military command of their proper officers.”<sup>230</sup> As stated above, Ford’s main purpose in riding to Carthage was to see Smith receive a just trial, and he was attempting to settle all the prerequisite details that needed to occur before a trial could be held. As Ford had close to four days of travel from Springfield to Carthage, he likely had plenty of time to determine what he would do once he arrived there. However, rather than defusing the situation, Ford seemed to be giving the mob order under a common head. In organizing the militias, Ford may have been attempting to calm the people in Hancock, many of whom he suspected may quickly turn to mobocracy without duly appointed leadership.<sup>231</sup> In this

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<sup>228</sup> Andreas, *History of Chicago*, 428. See also chapter 2 page 27 of this thesis.

<sup>229</sup> Ford, *A History of Illinois*, 324.

<sup>230</sup> Ibid.

<sup>231</sup> Ford, *A History of Illinois*, 332. On June 21, Ford made a speech to the militia present in Hancock and received from them their word that they would sustain him “in a strictly legal course, and that the prisoners should be

complicated situation, it seems Ford was being forced to make difficult choices in an attempt at resolving the issues between the Saints and their neighbors. Ford probably hoped that in organizing the mob into a militia, he could satisfy the demands of both sides by ensuring that Smith faced trial in Carthage. However, similar to Ogle County, Ford's words once again may have been used by a mob of vigilantes set on murder under the guise of justice.<sup>232</sup>

Ford's next order of business was to send a letter to Nauvoo to request the Saints' side of the story in the destruction of the press. Ford had previously followed this same judgeliike pattern of gathering sufficient information before making any legal decisions in the Missouri extradition attempts on Smith.<sup>233</sup> Smith probably believed that due to his past experiences where Ford eventually sided with him, the governor would be inclined to help him again. But in this new situation, it is possible Ford maintained his judgeliike belief of remaining as unbiased as possible in all matters.<sup>234</sup> After he gathered sufficient evidence for both sides of the *Expositor* destruction, Ford reflected, "I was convinced that the Mormon leaders had committed a crime in the destruction of the press and had resisted the execution of process, I determined to exert the whole force of the State, if necessary, to bring them to justice."<sup>235</sup>

In Carthage, it seems Ford attempted to establish a strong legal precedent for the Saints and their militia. By ensuring the execution of the law was followed exactly, Governor Ford was likely hoping to not only end this particular conflict, but forever settle any future potential skirmishes between Nauvoo and its neighbors. Ford was well-known for delivering swift justice through drastic measures, and on one occasion hung a man with inconclusive evidence in order

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protected from violence." It is after Ford received this promise from the militia that he promised the Smiths safety at a trial in Carthage.

<sup>232</sup> *The Quincy Whig*, July 30, 1842. See also chapter 2 pages 34-36 in this thesis.

<sup>233</sup> Joseph Smith Papers, J2:215 and chapter 3 pages 47-50 of this thesis for the first extradition attempt. Joseph Smith Papers, Vol. E-1, 1692 and chapter 3 53-54 of this thesis for treatment of the later situation.

<sup>234</sup> Ford, *A History of Illinois*, 216-217.

<sup>235</sup> Ford, *A History of Illinois*, 331-332.

to establish a legal precedent.<sup>236</sup> With the Nauvoo Legion, Ford had campaigned against them and their chartered rights, and was possibly using this situation as an opportunity to establish legal standards on when and how the Legion could be deployed.

In the matter involving the various militias in Hancock County, some of Governor Ford's legal inconsistencies can be observed. Although allowing the militias in Carthage to be organized, Ford insisted that the Nauvoo Legion be disbanded. Throughout his legal career, it appears Ford had developed the viewpoint that justice came by following the exactness of law, even to the possible detriment of society. In fact, earlier in his tenure as governor, Ford chose to support a judge's unpopular ruling based on a legal technicality, because the judge had followed the exactness of the law.<sup>237</sup> Since the citizens of Nauvoo were under legal scrutiny, Ford and the courts seemed to focus their legal attention on them rather than on all the citizens of Hancock County. However, if the governor or courts in Carthage were choosing to view this entire situation even-handedly, then it would have been fair to push charges of treason upon those constables who called out the militias to assemble in Carthage as well.

One of Ford's defining attributes was his hallmark of enforcing the exactness of law. On June 22, Ford wrote to Smith and demanded that he "be arrested by the same constable, by virtue of the same warrant and be tried before the same magistrate whose authority has heretofore been resisted. Nothing short of this can vindicate the dignity of violated law."<sup>238</sup> Although Ford touted the dignity of law, he likely saw the irony in attempting to enforce the original writ that clearly stated Smith's right to appear before any justice of the peace.<sup>239</sup> Notwithstanding, Ford apparently remained militant in observing the letter of the law as he saw it, just as he had done as

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<sup>236</sup> Andreas, *History of Chicago*, 428. See also chapter 2 pages 29-30 of this thesis.

<sup>237</sup> Caton, *Early Bench and Bar of Illinois*, 138. See also chapter 3 page 59 of this thesis.

<sup>238</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

<sup>239</sup> Writ of Arrest for Joseph Smith, June 12, 1844.

a judge. In fact, Ford once ruled against a man who had not filed the appropriate paperwork for some land he had purchased despite agreeing the man had legal right to the land.<sup>240</sup> In that particular case, Ford seemed to show he cared most that the law was followed exactly as he saw it, rather than the right thing done for the individual. Regarding his declaration of Smith being arrested and tried by the *same* writ and magistrate as before, Ford was trying to enforce the exactness of law on Smith as he saw it. It is possible Ford cared less for the specific outcome, than he did that the legal system was dutifully followed.

Throughout his professional life, it appears Ford only seldom strayed from the exactness of the law in his pronouncements. In the cases where he did stray, they often included his attempt to quell a mob, to establish a legal precedent through punishment, or to help a political ally. Although the original writ Smith was served allowed him to secure his release, Ford was willing to bend the law to ensure Smith's trial took place in Carthage.<sup>241</sup> Ford also was willing to bend the law as a judge on one occasion when he sentenced an alleged criminal to the penitentiary, even though there was a lack of evidence that supported the verdict.<sup>242</sup> In both cases, Ford's overarching concern seemed to be that justice prevailed, even with lack of evidence or support of law. Therefore, he appeared willing to force Smith to come to Carthage on a writ that had already been fulfilled in Nauvoo.

Despite his desire to follow the law exactly, it is possible Ford occasionally allowed biases to play a role in his decisions. In some of those legal matters, he often sided with his political associates even with a lack of evidence. Once while acting as judge in a trial involving a political supporter, Ford sided with his associate even though there was little evidence that

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<sup>240</sup> Andreas, *History of Chicago*, 85. See also chapter 2 page 28 of this thesis.

<sup>241</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

<sup>242</sup> Caton, *Early Bench and Bar of Illinois*, 107-108. See also chapter 2 page 32 of this thesis.



supported this verdict.<sup>243</sup> During the turmoil in Carthage, Ford was bombarded on both sides by those who were seeking his legal backing. Unfortunately for Smith and the Saints, it appears Ford chose to side with those who carried more political clout, rather than Smith's followers who may have begun to be seen by Ford as political baggage. Thus, some of Ford's biases in this case may have stemmed from his desire to please those he viewed as politically important to his Democratic party.

### Militias, Mobs, and Saints

As the gathering militia in Carthage grew more impatient from lack of action, they appeared to become more mobocratic in attitude. Throughout Ford's life in Illinois he had seen many different aspects of mobs and militias, and he understood the intricate balance they helped maintain for frontier life. This paradigm illuminates how he may have viewed the escalations in Hancock County. When a mob assembled, Ford believed "the only mode of putting it down was to call out the militia, who are, nine times out of ten, partisans on one side or the other in the contest."<sup>244</sup> Thus, in Ford's eyes, most militias were merely mobs that had been organized by the government, and the militia in Carthage seemed to fit that mold.

As animosity continued to grow in Hancock County, Governor Ford was now tasked with how to deal with two opposing mob forces. In this situation, Ford may have viewed both the Saints in Nauvoo and the growing band of militia members in Carthage as hostile mobs. Ford had spent the majority of his career being surrounded by mobs and had conceded they often inhibited the exactness of law being executed throughout the state.<sup>245</sup> Because of this, Ford was

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<sup>243</sup> Ibid., 86-87. See also chapter 2 pages 29-30 of this thesis.

<sup>244</sup> Ford, *A History of Illinois*, 249.

<sup>245</sup> Ibid., 321. See also chapter 2 page 31 of this thesis.

forced to walk a delicate line of enforcing justice against mobs and ensuring the law was followed. Besides occasionally catering to his friends in the courtroom, it seems Ford also occasionally disregarded the law in matters involving mobs. In some instances, it is possible he ensured the law was followed by occasionally using a mob to put down a mob.

Ford felt the majority of mobs originated from two causes: first, because laws fail to solve the ills of society; and second, because men expect more from the law than the law is able to provide.<sup>246</sup> He explained it this way: “For if government cannot suppress an unpopular band of horse thieves associated to commit a crime, how is it to suppress a popular combination which has the people on its side? I am willing enough to acknowledge that all this is wrong, but how is the evil to be avoided?”<sup>247</sup> Ford conceded the government was often not able to control mobs or the violence they caused. Mobocracy was a common enough element of life, and Ford seemed content to accept it whatever the cost. In the past, Ford may have viewed the outcome of mobocratic violence as favorable because justice was served, his involvement was largely forgotten, and mobs were eliminated from a county that had previously been filled with them.<sup>248</sup> It is possible Ford saw the process of using a mob to quell a mob a regrettable but necessary way to end future violence. Ford again apparently followed this pattern in Carthage, and two men were again murdered. Except following the murders in Carthage, violence continued to spread in the county until the Saints were eventually exiled.

While attempting to temper his feelings of mobs, Ford declared, “I do not apologize for mobs, all of which I would crush forever, in every part of this free country. But no language can be loaded with sufficient severity for the fanatical leaders who, by their violence, by their utter

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<sup>246</sup> Ibid., 249.

<sup>247</sup> Ibid., 251.

<sup>248</sup> Davis, “Judge Ford and the Regulators.” See also chapter 2 pages 33-36 of this thesis.

disregard of honest prejudices, drove a peaceful community to a temporary insanity, and to the commission of enormous crimes.”<sup>249</sup> It seems as if Ford was willing to accept mobocratic actions because the majority of Carthage citizens agreed with them. It also appears his view of mobs and his unwillingness to stand up to them (and at times even accepting them) casts a looming, foreboding shadow on the events surrounding the mobocracy of Carthage Jail.

As the hostilities continued to fester between the militias, mobs, and Saints, Governor Ford’s lack of experience in politics began to manifest itself. As a judge, Ford had often found justice through choosing sides based on his interpretation of law. Now as a politician, he was likely finding it difficult to appease both sides in the conflict. One Illinois historian noted,

Even a politician of large experience would have found difficulty in controlling them. Ever before that time he had been accustomed to the calm order of judicial labor, and when the storm of political events gathered around him he was powerless to control it. It was then he needed most the support of friends. But those who had professed to be his friends proved faithless and even treacherous when their support would have been most valuable to him. Not only assailed by the press of his own party as well as by the press never friendly to his political views, he was denounced by those that owed him much and who ought to have sustained him in his hour of trial. That hurt him most of all.”<sup>250</sup>

It appeared Ford was now on a political island, and a storm was coming.

### Broken Promises and Unheeded Warnings

In Ford’s June 22 letter to Smith, he accused him of violating the Constitution and “refusing...to be accountable therefore according to the general laws of this state.”<sup>251</sup> Ford also told him the actions he pursued under the power of habeas corpus were unlawful. This is an interesting argument for Ford to make, since he had made the choice not to interfere with

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<sup>249</sup> Ford, *A History of Illinois*, 238-239.

<sup>250</sup> Scott, *Supreme Court of Illinois*, 324.

<sup>251</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

Smith's previous use of habeas corpus in prior legal matters. Generally, a habeas corpus hearing was held in a state or federal court, but the charter in Nauvoo allowed the Saints to hold those hearings themselves. In criticizing Smith's use of habeas corpus, Ford seemed to be breaking with the position he had taken years before in Cook County, when he had defended a military commandant in a habeas corpus hearing who was thought to have broken the law. As was shown in that hearing, Ford had argued that due to lack of evidence on either side, the assumption should be made the military officer followed correct protocol for habeas corpus and should be released.<sup>252</sup> In this particular matter with General Smith, Ford appeared to be inconsistent in his attitude that a military commander (who he felt had abused his legal rights) should be trusted in this type of hearing. It is possible due to his experience in habeas corpus hearings, Ford was unwilling to accept Smith's use of it, despite Smith being a military leader in the Nauvoo Legion. Ford's choice to not interfere in previous hearings Smith was involved in may have given the impression to him the governor had given his legal support to the Saints in those matters. Essentially, Ford's silence may have been seen as support.

Governor Ford's June 22 letter detailed requirements he expected of Smith and pronounced consequences if they were not followed. The governor required Smith "and all persons in Nauvoo accused or sued to submit in all cases implicitly to the process of the court, and to interpose no obstacles to an arrest."<sup>253</sup> The next requirement was linked to the first command in that Smith would be required to be arrested and tried according to the first warrant served him. This entailed Smith and the others charged in the destruction of the *Expositor* would be held on charges of inciting a riot and would be tried in Carthage. Ford further threatened:

A small indiscretion may bring on a war. The whole country is now up in arms, and a vast number of people are ready to take the matter into their own hands. Such a state of

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<sup>252</sup> Caton, *Early Bench and Bar of Illinois*, 40-41. See also chapter 2 page 23-24 of this thesis.

<sup>253</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

things might force me to call out the militia to prevent a civil war. And such is the excitement of the country that I fear the militia, when assembled, would be beyond legal control... If you, by refusing to submit, shall make it necessary to call out the militia, I have great fears that your city will be destroyed, and your people many of them exterminated... Your city was built, as it were, upon a keg of powder which a very little spark may explode... I tell you plainly that if no such submission is made as I have indicated, I will be obliged to call out the militia; and if a few thousand will not be sufficient, many thousands will be.<sup>254</sup>

Throughout Ford's legal career, he had occasionally shown his willingness to threaten people with justice if they chose to stray from his pronouncements. The situation was similar to the time he had purportedly declared from the bench "summary vengeance" on lawbreakers by gathering his own mob, as discussed in chapter two.<sup>255</sup> Smith probably believed the governor's threats due to seeing Ford's decision to gather and militarize the militias in Carthage. Following these threats, Ford then issued his infamous promise, "I will also guarantee the safety of all such persons as may thus be brought to this place from Nauvoo either for trial or as witnesses for the accused."<sup>256</sup>

Joseph Smith promptly replied to Ford and countered each of the governor's complaints including the reasons for habeas corpus, martial law, and destroying the *Nauvoo Expositor*.<sup>257</sup> Smith then pointed out what he viewed as a major flaw in Ford's plan to get him to come to Carthage. Ford promised safety for Smith and the other defendants in the trial, but also said he would be unable to stay the mob's force if they chose to attack Nauvoo. Smith was not opposed

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<sup>254</sup> Ibid.

<sup>255</sup> *The Quincy Whig*, July 30, 1842. See also chapter 2 page 34 of this thesis.

<sup>256</sup> Thomas Ford Letter to Joseph Smith, June 22, 1844.

<sup>257</sup> Smith included the following in his treaty to Ford. "Our 'insisting to be accountable only before our own Municipal Court' is totally incorrect. We plead a *habeas corpus* as a last resort to save us from being thrown into the power of the mobocrats." Smith then pointed out that the last court and judge they went to was not a member of the church. "As to martial law, we truly say that we were obliged to call out the forces to protect our lives; and the Constitution guarantees to every man that privilege." In regard to the destruction of the *Nauvoo Expositor*, Smith wrote that, "You have intimated that no press has been abated as a nuisance in the United States. We refer your Excellency to Humphrey *verses* Press in Ohio, who abated the press by his own arm for libel, and the courts decided on prosecution no cause of action. And we do know that it is common for police in Boston, New York, &c., to destroy scurrilous prints." Joseph Smith Papers, F-1, 144.

to coming to Carthage to stand trial except for the fact mob violence certainly waited for him there.<sup>258</sup> Eventually, Smith reiterated his trust in Ford's promise of safety and in the right to have a fair trial in Carthage.<sup>259</sup> Through Governor Ford and Joseph Smith's interactions, the governor had gained Smith's friendship and also his trust.<sup>260</sup> Smith was likely willing to submit himself to Ford because of their previous legal interactions.

Upon the Smiths' appearance in Carthage, they were quickly arrested, posted bail, and arrested again for treason. Treason was considered a capital crime that required a circuit judge to assign a bail amount. Rather than call for the circuit judge and possibly allow Smith to return to Nauvoo, Justice Robert Smith, a captain of the Carthage Greys, merely adjourned the proceedings without bail until June 29.<sup>261</sup> The Smiths were then escorted to and cornered in Carthage Jail. Shortly thereafter, Governor Ford disbanded the militia except for a few members of the Carthage Greys. Thus, Ford disbanded those he had organized under the government, and seemingly turned the militia back into a mob.

It is here Ford makes another set of questionable choices: he did nothing to interfere with the jailing of the Smiths in Carthage, and he chose to have an angry militia guard them in the jail. Captain Robert Smith was in charge of a company of the Carthage Greys and was also the justice of the peace who signed the arrest warrants for the Smiths. This would have been a possible conflict of interest, yet it seems Ford chose to ignore it. The situation was similar to the one in

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<sup>258</sup> Ibid.

<sup>259</sup> Joseph Smith Letter to Thomas Ford, June 23, 1844.

<sup>260</sup> The Joseph Smith Papers, Discourse of Joseph Smith as reported by Willard Richards, August 6, 1843, <https://www.josephsmithpapers.org/paper-summary/discourse-6-august-1843-as-reported-by-willard-richards/4#full-transcript> (accessed August 8, 2019).

<sup>261</sup> Oaks and Hill, *Carthage Conspiracy*, 18. In the aftermath of the martyrdoms, Governor Ford maintained that if the Nauvoo Legion had been ordered out to merely resist arrest, then the Smiths would have been guilty of treason. However, Ford acknowledged that if the Legion were called out to protect the Smiths from murder, which was actually the case, then the treason charge would have been dubious. Thus, in the end of the matter, Ford disagreed with the Carthage court's proceedings, but since the court had already ruled, Ford determined to support to the law.

1841, when Ford had remained on a case that also posed a similar conflict of interest in his behalf, yet he was unwilling to step down because it may have affected the outcome he desired.<sup>262</sup>

In writing about these events in Carthage, Ford stated he was acting in his correct sphere by not interfering with the courts. He argued that as governor, he could not “dictate or control” the court’s actions, only give aid.<sup>263</sup> Ford appears to be going back and forth on his legal pronouncements. He had earlier written to Smith that it was his job to intercede and correct the course of action the Nauvoo courts had declared. Yet, when the time came for political injustice in Carthage, Ford kept quiet and allowed the mobs to rule. It appears Ford had followed this same pattern earlier in his tenure as governor when he was petitioned to remove a supreme court judge who had issued a verdict the community disagreed with. Similar to his stance in Carthage, Ford was unwilling to use his position as governor to intervene.<sup>264</sup> Governor Ford had often shown in previous instances that he would be unwilling to impose his judgement as governor on decrees issued from the courts, as long as the courts had followed the law the way he saw fit.

Claiming his desire to not overstep his bounds as governor, Ford chose not to replace the Carthage Greys at the jail who were assigned to guard the Smiths. Additionally, Ford chose not to give credence to multiple warnings regarding an imminent attack on Carthage Jail.<sup>265</sup> In addition to the multiple warnings given to Ford by the Smiths’ friends, Joseph Smith’s own letter to Ford was clear he would be murdered if Ford allowed him to be cast into the hands of the angry mobs in Hancock County. Despite these repeated warnings, Ford felt, “Neither they [Smith

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<sup>262</sup> Davis, “Judge Ford and the Regulators,” 31. See also chapter 2 pages 36 of this thesis.

<sup>263</sup> Ford, *A History of Illinois*, 338.

<sup>264</sup> Caton, *Early Bench and Bar of Illinois*, 138. See also chapter 3 page 56-57 of this thesis.

<sup>265</sup> Bushman, *Rough Stone Rolling*, 547-549. See also Oaks and Hill, *Carthage Conspiracy*, 19-20; Ford, *A History of Illinois*, 340, 345-346.

and his companions] nor I seriously apprehended an attack on the jail through the guard stationed to protect it.”<sup>266</sup> This statement from Ford seems doubtful in light of the abundant information presented to him regarding the mob and the threats issued towards his prisoner.

As Ford wrote in his book about the Smiths’ murders, he attempted to show how little he was in control of the situation. In a similar manner, during the Ogle County trial, Ford likely viewed himself as completely uninvolved in the murder of the Driscoll bandits due to his absence from the city while the murders took place. He used a similar rebuttal for the murders in Carthage, but to the detriment of his argument, Ford’s philosophy of punishment was that a physical penalty greatly outweighed time spent in prison.<sup>267</sup> Murder at the hands of a mob was certainly a sentence that would have taught all future citizens where the government stood towards those who abused the law. Ford had spent years professing the letter of the law, yet in his most important cases, he apparently allowed justice to run its course without support of law. Though out of the city when the murders occurred, it is possible Ford’s choices in Hancock County as governor were used by others as justification for the excessive violence in Carthage Jail.

In all of Ford’s choices regarding the imprisonment of Smith, perhaps the most difficult to understand was the broken promise of the governor to take the prisoners along to Nauvoo if he traveled there on the 27 of June.<sup>268</sup> As the governor rode to Nauvoo on June 27 without the Smiths, he chose to disband most of the militia that had planned on traveling with him. The growing mob in Carthage was incensed at being left out of a potential battle in Nauvoo with the governor at their head.<sup>269</sup> As Ford left for Nauvoo, the mob was without political leadership and

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<sup>266</sup> Ford, *A History of Illinois*, 338.

<sup>267</sup> Caton, *Early Bench and Bar of Illinois*, 54. See also chapter 2 page 39 of this thesis.

<sup>268</sup> Taylor, *Witness to the Martyrdom*, 76-77.

<sup>269</sup> Ford, *A History of Illinois*, 341-342.



turned to violence in an instant. As was seen in Ogle and again in Hancock, Ford's choice to leave the immediate violent atmosphere likely led to more violence in his absence. This broken promise of not taking the Smiths to Nauvoo led to a second, more severe broken promise regarding the safety of Joseph and Hyrum Smith. It is possible Ford allowed some discrepancies to sneak into his interpretation of the law that allowed mobocratic justice, as was demonstrated in chapter two and again in Carthage.<sup>270</sup>

#### Summary of Chapter 4

The rest of the story is familiar to most who have studied The Church of Jesus Christ of Latter-day Saints history. The mob in Carthage attacked the jail and murdered Joseph Smith and his faithful brother Hyrum. It appears Ford's actions, whether directly or indirectly, led to the martyrdom of Joseph Smith. History is rife with possibilities and what-ifs. It is impossible to turn back the hands of time to determine what would have happened had a certain individual acted differently in a specific situation. All we can do is look at the facts. And looking at the facts, two men lay dead in Carthage Jail. Ford may not have pulled the trigger that murdered them, but it seems his actions and choices may have loaded the gun for others to do so. Rather solemnly and bitterly, Thomas Ford penned these words regarding his actions surrounding the incarceration of Joseph Smith that led to the martyrdom:

Carthage Jail may become [a] holy and venerable name...; like Jerusalem, the Garden of Gethsemane, the Mount of Olives, and Mount Calvary to the Christian. And in that event the author of this history feels degraded by the reflection that the humble governor of an obscure State, who would otherwise be forgotten in a few years, stands a fair chance, like Pilate and Herod, by their official connection with the true religion, of being dragged

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<sup>270</sup> Ford, *A History of Illinois*, 321. See also chapter 2 pages 33 and 41 of this thesis.

down to posterity with an immortal name hitched on to the memory of a miserable imposter.<sup>271</sup>

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<sup>271</sup> Ford, *A History of Illinois*, 360.

## Chapter 5:

### Conclusion: Justice for Joseph Smith

The viewpoint of placing all the blame for Joseph Smith's murder on the shoulders of Governor Ford likely does not accurately capture the complexity of the situation. As was examined in this thesis, the historical context of Illinois in the late 1830s and early 1840s also had heavy bearing on the Saints' tenure in the state. Rather than focus specifically on Ford's fatal decisions in Carthage, this study has also examined his legal background and the extensive influence it may have had on those decisions. When Ford was elected governor in 1842, he had no political training to prepare him for the challenges he faced in office and he likely used his previous experience to guide him. Therefore, it seems Ford's decisions leading up to and following the martyrdoms in Carthage Jail can in part be directly related to his career as a lawyer and judge.

As was seen throughout chapter two, Ford often attempted to balance his desire to fulfill the exactness of the law with a quest for justice. Many times these pursuits were linear, but they occasionally presented Ford with an ultimatum. Ford apparently followed this same pattern as governor by using the law as his mainstay throughout most of his interactions with Smith. In the situations where Ford chose to stray from the letter of the law, it usually involved mobocracy or his attempt to please those around him. In those matters, Ford occasionally strayed from the law to ensure justice was served. As one of the pioneer lawmen of Illinois, Ford occasionally took opportunities to establish a legal precedent against those he felt had circumvented the correct channels of law. However, even in those situations, it seems Ford still attempted to maintain a complicated balance of law and justice. This balance is seen in Ogle County when he was unable

to enforce the law through the court and instead allowed a vigilante group to use violence to administer punishment.<sup>272</sup> Attempting to balance justice, law, and a frontier society was a challenge that Ford had extensive experience with, yet often struggled to maintain.

This attempt at balance is seen throughout Ford's interactions with Smith during the 1842 and 1843 extradition attempts. In those cases Ford showed his predisposition to follow the court's ruling, rather than initially choosing sides. Yet in those cases, Ford eventually used the law to side with Smith, which built trust with him.<sup>273</sup> During the chaos in Carthage after the *Expositor* affair, many of Ford's choices can once again be connected to his past, as it appears he assisted in assembling a mob to ensure that justice could be carried out.<sup>274</sup>

Although the tragic violence in Hancock County on June 27, 1844 occurred at the conclusion of an intense three-week period of unrest following the destruction of the *Nauvoo Expositor*, the paths of Joseph Smith and Thomas Ford had been on a collision course years in the making. During this time, Ford faced a difficult path regarding justice, politics, and conscience. Furthermore, he was conflicted in his desires to protect the honor of his state and his inability to gain a sufficient following to make the necessary arrests for Smith's murder trial. In fact, soon after the martyrdoms Ford chided the mob in Carthage for their continued resolve to drive the Saints from Nauvoo by citing legality as their obstacle.<sup>275</sup>

Because the Smiths' deaths occurred while Ford was in Nauvoo, he felt betrayed by the militia he had left in Carthage.<sup>276</sup> The timing of the murders may have strengthened Ford's

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<sup>272</sup> Davis, "Judge Ford and the Regulators." See also chapter 2 pages 33-37 of this thesis for a treatment of the Ogle County mob.

<sup>273</sup> Joseph Smith Papers, J2:106. See also chapter 3 page 48-53 of this thesis.

<sup>274</sup> Ford, *A History of Illinois*, 324. See also chapter 4 page 67 of this thesis.

<sup>275</sup> Joseph Smith Papers, Vol. F-1, 249-252.

<sup>276</sup> Ford, *A History of Illinois*, 349.

resolve to use the law to form a case against the alleged assassins.<sup>277</sup> Understanding the parties in Hancock were partisan, Ford trusted in the tenets of law to solve the difficulty in court. Due to 1844 being a county election year, Ford waited until the elections were over to pursue a trial.<sup>278</sup>

In the meantime, two of the accused murderers fled to Missouri to escape justice. Ford led a small band of volunteers to arrest the fugitives and made some preposterous legal agreements in part because he had been undercut by some of his inferior officers.<sup>279</sup> This lack of support from those around him may have caused his confidence to plummet. Previously, Ford's lack of confidence and willingness to bargain had led to a compromise that awarded a complete acquittal of an obvious murderer.<sup>280</sup> In Carthage, history again repeated itself when this unusual compromise also ended in a complete acquittal for the five accused murderers of Joseph Smith. When his political career had finished, Ford looked back on it and sadly acknowledged this egregious lack of support.<sup>281</sup> Two possible factors for this were that he had been elected with the intention of being a puppet for his party leaders, and his ambition in his professional pursuits as a lawyer and politician had never been lofty.<sup>282</sup>

Throughout the trial for the murderers of Joseph Smith, it became increasingly clear to most citizens of Illinois the Saints were going to have to leave the state.<sup>283</sup> After the trial ended, Governor Ford continued to struggle with constant battles in Hancock County regarding the

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<sup>277</sup> Once as a judge, Ford carefully reviewed multiple depositions in a complex business case between two parties in order to accurately determine a fair amount in which to award payment. As governor, he had shown his willingness to gather the facts before enforcing Smith's multiple extradition attempts back to Missouri. See chapter 2 pages 31-32 and chapter 3 page 54 of this thesis respectively.

<sup>278</sup> Oaks and Hill, *Carthage Conspiracy*, 46.

<sup>279</sup> Ford, *A History of Illinois*, 365-366. Amongst other things, Ford had to agree that the men would be taken to Quincy rather than Nauvoo, they were given the right to a reasonable bail despite them being charged with a capital crime, and that there would be no change of venue in court.

<sup>280</sup> Caton, *Early Bench and Bar of Illinois*, 40-42. See also chapter 2 page 24 of this thesis.

<sup>281</sup> Ford, *A History of Illinois*, 270-271.

<sup>282</sup> Ibid. Ford mentioned he had no desire for elected political positions, due in part to lack of ambition.

<sup>283</sup> Oaks and Hill, *Carthage Conspiracy*, 71.

Saints. The Saints lost the multiple skirmishes for Nauvoo and accepted their fate by signing a treaty that guaranteed their departure from their city. The majority of the Saints left Nauvoo in 1846, and Ford left office shortly after. A friend of Ford's wrote, "The end of his administration came none too soon for him. It was an honest administration, yet it was not altogether satisfactory to his party friends. The result of the Mormon difficulties was far from being satisfactory even to himself."<sup>284</sup> It is likely Ford knew his choices in Carthage would forever be associated with Joseph Smith.

Ford's career as governor of Illinois was marred by difficulties, the largest of which was likely the challenge of integrating the Saints. It is possible Ford's unflinching zeal towards the law became the hallmark of his career. Yet, in attempting to reconcile the law with the popularity of society, Ford struggled to appease the masses. As noted throughout his book, Ford felt governments could not exist or enforce laws without the support of the people.

The true reasons why the great offenders and combinations of criminals so frequently go unpunished is, that they are too strong for the ordinary machinery of government, single handed, without a vigorous support of that government by the orderly and well-disposed. The government is too frequently left without this support. The peaceable and orderly many are so engaged in separate and selfish, but lawful projects of their own, that it is hard to get them to take part in putting down the disorderly few, except when the disorders become intolerable and insufferable; and then the power of the many is exercised.<sup>285</sup>

Ford desired justice for Smith's murder, as well as for the broken honor of himself and his state.<sup>286</sup> The problem was he was unable to procure justice for all of them. Governor Ford was a man who purported to represent the law to the people, but his perception was very few people he

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<sup>284</sup> Scott, *Supreme Court of Illinois*, 325.

<sup>285</sup> Ford, *A History of Illinois*, 250.

<sup>286</sup> Ford stated later that he made great efforts to bring the murders to justice, "to vindicate the violated honor and broken pledge of the State." Furthermore, he declared that by not putting forth his best efforts to achieve justice for the murders then he would not be any better off than the murderers themselves. *Reports Made to the Senate and House of Representatives of the State of Illinois* (Springfield, Illinois: George R. Weber, Public Printer, 1846), 8.

interacted with wanted the exactness of law as much as they claimed. Much of Ford's life was spent dedicating himself to legal pursuits— including his pursuit of justice for Joseph Smith, both before and after his martyrdom. This pursuit likely originated in part to Governor Thomas Ford's background as a lawyer and judge directly impacting his choices and actions in the events surrounding the martyrdom of Joseph Smith in Carthage Jail.

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