

***AN ANALYSIS OF WESLEY WALTERS'***  
***"JOSEPH SMITH'S BAINBRIDGE, N.Y., COURT TRIALS"***

BY

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# **AN ANALYSIS OF WESLEY WALTERS' "JOSEPH SMITH'S BAINBRIDGE, N.Y., COURT TRIALS"**

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## **INTRODUCTION**

In the winter of 1974 an article by the late Reverend Wesley Walters entitled "Joseph Smith's Bainbridge, N.Y., Court Trials" appeared in the *Westminster Theological Journal*.<sup>1</sup> In this article Reverend Walters attempted to show that on March 20, 1826, Joseph Smith was convicted in a court of law of glass looking. The purpose of this paper is to show that Walters drew unwarranted conclusions from the evidence he presented, and that his goal was not to learn the truth about Joseph Smith's 1826 interaction with the law, but rather was to discredit Joseph Smith as prophet material.

## **THE 1830 TRIAL**

Walters' article begins with a discussion of an undisputed trial of Joseph Smith that took place in 1830. Walters first quotes that part of Smith's trial account which provides details about when and where the trial occurred. He does not quote Smith's account of the testimony or verdict.<sup>2</sup> He then announces:

"There is now contemporary evidence to confirm Smith's story of this trial..."<sup>3</sup>

This evidence consists of the constable's and justice's bills of expenses. The bills<sup>4</sup> show only that:

1. The date of the trial was July 1, 1830.
2. The charge was being a disorderly person.
3. Twelve witnesses were called.
4. Joseph Smith was held for one day and was fed three meals.
5. Ten subpoenas were issued.

The bills contain no testimony or verdict. They confirm part of Smith's story, but by no means do they confirm the items of most interest--the testimony presented and the disposition of the case. Since the bills make no reference to the testimony or verdict, they neither confirm nor refute this part of Smith's story.

Joseph Smith's account tells of religious persecution, with the law being used as a weapon against him. According to Smith, the warrant for his arrest was served just prior to the scheduled start of a worship service,<sup>5</sup> and the constable told him that the charge of being a "disorderly person" referred to the preaching of the **Book of Mormon**.<sup>6</sup> Smith recounts Josiah Stowell's testimony:

"Did not the prisoner, Joseph Smith, have a horse of you?' 'Yes.'  
'Did not he go to you and tell you that an angel had appeared unto him and authorized him to get the horse from you?'  
'No, he told me no such story.'  
'Well, how had he the horse of you?'  
'He bought him of me as any other man would.'  
'Have you had your pay?'  
'That is not your business.'  
The question being again put, the witness replied:  
'I hold his note for the price of the horse, which I consider as good as the pay; for I am well acquainted with Joseph Smith, Jun., and know him to be an honest man; and if he wishes, I am ready to let him have another horse on the same terms.'"<sup>7</sup>

A. W. Benton, the man who filed the disorderly person complaint against Smith, also wrote an account of this 1830 trial.<sup>8</sup> Benton also relates Stowell's testimony:

"Did Smith ever tell you there was money hid in a certain place which he mentioned? Yes. Did he tell you, you could find it by digging? Yes. Did you dig? Yes. Did you find any money? No. Did he not lie to you then, and deceive you? NO, the money was there, but we did not get quite to it! How do you know it was there? Smith said it was."<sup>9</sup>

The Benton and Smith accounts of Stowell's testimony differ at every point. Which version is an accurate rendition of what was said in the courtroom, or are Smith and Benton, for different purposes, quoting different parts of Stowell's testimony, both of which are accurate? It is impossible to tell from the bills, for they say nothing about the testimony.

What about the verdict? Smith says he was acquitted.<sup>10</sup> Benton does not provide a verdict.

Notice how Walters handles the details of the 1830 trial:

1. He quotes Smith for the charge, arrest, time of the trial, the name of the Justice, and the name of one witness (Stowell). He also states that Stowell's daughters were witnesses. He gives no further information from Smith, or from sources friendly to Smith.

2. He quotes Benton's account of the testimony, leading the reader to believe that this account is complete and accurate. While he does mention that Smith left an account of the testimony, he implies that it is not accurate:

"This material could be verified as to accuracy if we could locate Justice Chamberlin's docket book..."<sup>11</sup>

3. While he does indicate that Benton filed the disorderly person complaint against Smith,<sup>12</sup> this fact is mentioned only in passing, and no special attention is drawn to it. How many of Walters' readers will notice that the only information he gives about the trial testimony comes from the man who filed the complaint against Smith?
4. The remainder of Benton's remarks, which Walters does *not* quote, show that Benton strongly disliked Mormons in general and Smith in particular, and that he (Benton) believed that Mormons would lie under oath in court.<sup>13</sup> By not presenting this information, Walters effectively hides Benton's anti-Mormon feelings from his readers, leaving them with the view that Benton is unbiased.
5. By quoting both Mormon and non-Mormon sources, Walters appears to be neutral toward both groups. But look again! What he quotes from Mormon sources give only mechanical details of the trial. As important as this information is, it is not the crucial information -- the testimony and verdict. For this the reader is treated to Benton's highly biased account. Walters *appears* to play fair with both sides when in reality he is urging his readers to accept Benton's anti-Mormon interpretation of the trial.
6. Walters' conclusion *based upon Benton's account of the 1830 trial* is that:

"there can no longer be any doubt that prior to his printing and sale of the **Book of Mormon**, he [Smith] had gained part of his livelihood by 'glass looking' for hidden treasure."<sup>14</sup>

This conclusion is not warranted by the evidence, even when it is presented in Walters' highly distorted fashion. His reasoning is:

1. We now have bills that verify Smith was tried as a disorderly person in 1830.
2. These bills show that *Benton's* account of the testimony is accurate, and that his contention that Smith was a glass looker is actually true.

3. Therefore we know Smith was a glass looker before the printing of the **Book of Mormon**.

Despite five pages of discussion, Walters fails to show how the existence of the bills proves Benton's account of the trial and statements about Smith's glass looking to be accurate. Walters selectively uses the evidence in a case of special pleading to convince the reader that the existence of the bills proves the anti-Mormon stories of Smith's glass looking are true, when in fact they prove nothing of the sort. Walters' readers need to ask several questions about his methods:

1. Why doesn't he evaluate Benton's remarks in light of the fact that Benton was the one who brought the charge against Smith and had no use for Smith and the Mormons?
2. Why doesn't he provide *Smith's* account of the trial testimony as well as that of Benton? Since there have been religious frauds, an objective researcher would agree that Benton might be telling the truth. However, there also are also well-documented cases of religious persecution. Smith's account of this trial should be presented for the reader's evaluation.
4. Why does he put Benton's statements in the best light and imply, without evidence, that Smith's statements are untrustworthy?

I suggest three answers to these questions:

1. Walters was not a neutral historian trying to ascertain what happened between Smith and the law. Rather, he was predisposed against Smith and out to discredit him.
2. He wanted the readers to accept it as established fact that Smith was a glass looker, despite the poor quality of the evidence used to support that assertion.
3. He wanted the reader to accept his twisted logic that the bills verify the anti-Mormon account of the 1830 trial. *This is crucial for his discussion of the 1826 trial.*

## THE 1826 TRIAL

Having concluded that Smith was indeed a glass looker and a scoundrel, Walters next tackles the 1826 trial. He starts by again quoting Benton about Smith's 1825 money

digging activities as a glass looker for Stowell.<sup>15</sup> He then presents the justice's and constable's bills with the statement that:

"the discovery...of two bills from the officials who participated in the arrest and trial of Joseph Smith at South Bainbridge in 1826 confirm this story beyond question."<sup>16</sup>

The bills<sup>17</sup> verify that:

1. Smith was before the court on an unspecified misdemeanor charge.
2. The Justice's fee was \$2.68.
3. The court appearance was on March 20, 1826.
4. Smith was held for two days and one night.
5. Twelve witnesses were subpoenaed.
6. Two justices were notified.
7. The sheriff had a mittimus.

Again, no testimony or verdict is recorded. Walters emphasizes that the term "the glass looker" in Neely's bill proves that Smith was indeed a glass looker, and as corroboration refers in a footnote to a statement made by Isaac Hale, Smith's father-in-law, where Hale says that Smith referred to himself as a glass looker.<sup>18</sup> A comparison of Hale's statement with Joseph Smith's history show that Walters is again drawing unwarranted conclusions and suppressing information about Hale which the reader needs for a proper evaluation of Hale's statement. The reader needs to know that:

1. The Smith family stated that Joseph's reputation as a money digger *originated* from his work with Stowell in late 1825. According to the family, Stowell had hired Joseph to help search for a mine.<sup>19</sup>
2. Hale's statement is not contemporary with the alleged money digging and glass looking activities, but was given in 1834 *after* Smith had made enemies because of the publication of the **Book of Mormon** and the founding of a church. *Hale, a devout Methodist, considered Smith to be a religious fraud.*<sup>20</sup>

By emphasizing that Hale was Smith's father-in-law, Walters hopes to convince the reader that Hale and Smith were on friendly enough terms that Smith would confide in Hale, who was therefore in a position to know first-hand what Smith was doing. In fact, Smith boarded with the Hales while working for Stowell. Hale didn't approve of Smith's occupation, which at that time was helping Stowell look for a mine, and refused to let Joseph marry his daughter.<sup>21</sup> In January, 1827, the twenty-two-year-old Emma eloped with Joseph,<sup>22</sup> much to her father's annoyance. Smith irritated Hale again by refusing

to show him what were supposed to have been the plates from which the **Book of Mormon** was taken.<sup>23</sup>

Thus Hale is not a neutral witness, but held several grudges against Smith and regarded him as a religious fraud. Yet Walters implies that this supposed self-designation as a glass looker comes from a source which is neutral or perhaps even friendly to Smith.

Walters states that Smith referred to himself as a glass looker, yet he does not present any statement of Smith's where he so referred to himself. Instead, Walters quotes Hale allegedly quoting Smith eight years after the fact. Therefore, on this point Walters relies on eight-year-old hearsay. This quotation approach is typical of anti-Mormon writers--quote someone else allegedly quoting what Smith supposedly told them secretly, and assume without further corroborating evidence that Smith actually did say the things attributed to him.<sup>24</sup>

By providing Hale's statement that Smith referred to himself as a glass looker, without giving the reader the background necessary to evaluate that statement, Walters hopes the reader will accept it as an unquestionable fact that Smith actually was a glass looker. To the best of this writer's knowledge, no one has yet presented legitimate evidence from Smith himself, or from sources known to be friendly to Smith, that he ever referred to himself as a glass looker. The two documents supposedly from friendly sources which indicate Smith was involved in this activity (the 1825 letter from Smith to Josiah Stowell and the "Salamander" letter of 1830 from Martin Harris to W. W. Phelps) have both been shown to be modern forgeries executed by document-forgery Mark Hofmann.<sup>25</sup>

At this point another question needs to be asked: Is it possible to account for the use of the term "glass looker" in Neely's bill and Hale's statement in a way that is consistent with the Smith family's account of this period in their lives? According to the Smiths:

1. The Angel showed Joseph the plates and Urim and Thummim in September, 1823. They were buried in the ground in a stone box. Joseph was not allowed to take them, but instead returned each year (for four years) to receive instruction from Moroni.<sup>26</sup>
2. Joseph continued from this time to receive instruction from the Lord.<sup>27</sup>
3. On September 22, 1824, Smith attempted to take the plates out of the ground. They disappeared when he set them down with the thought of seeing if anything of monetary value was stored with them.<sup>28</sup>

4. Being alarmed, Smith prayed, and was chastened by Moroni for not following instructions. Looking up again, he saw the plates and attempted to take them but was thrown away with great violence.<sup>29</sup>
5. All of these events were related to the family.<sup>30</sup>

What do the stories from unfriendly sources insist about Smith?

6. Smith spent years seeking treasure from the ground. (The plates?)
7. Peepstones were used to find the location of the treasure. (The Urim and Thummim?)
8. Smith could never get the treasure because:
  - a. As soon as he dug to it, it disappeared (see number 3 above), or
  - b. When he reached it, an earthquake would move it (see number 4 above), or
  - c. A ghost guarded it. (The angel Moroni?)
9. There would be some kind of religious ceremony to allow him to get the treasure. (Praying?)

The parallels between the Smith account and the anti-Mormon accounts should be obvious. While Joseph instructed his family not to relate the things he was telling them to anyone, over a period of years rumors were certain to spread. Indeed, it was the rumor that Smith could discern things invisible to the naked eye which prompted Stowell to hire him to find an old Spanish mine that was supposed to be on his property.<sup>31</sup> If the Smith family's account of Joseph's activities is the truth, one would expect rumors of treasure hunting, money digging, and glass looking to be circulated by skeptics and other unbelievers.

There exist *at least* two explanations for the term "glass looker" appearing in Hale's statement and on Neely's bill. The two that are diametrically opposed are:

1. The anti-Mormon accounts are true, and Smith really was involved with money digging and glass looking.
2. Smith's account is true, and nonbelievers circulated rumors about his finding the plates of the **Book of Mormon** and the Urim and Thummim (and how they were to be used), which became stories of money digging, peepstones and glass looking.



If both explanations equally account for the term "glass looker," then the presence of this term in Neely's bill can't be used to determine which explanation (or whether some combination of both) is the truth. Walters takes the view that the only way Smith could have a reputation as a glass looker is if he really was a glass looker. This is nonsense.

## THE ACCOUNTS OF THE 1826 TRIAL

The first published account of the trial was an article by Charles Marshall which appeared in England in February, 1873, in *Frasers* magazine. Marshall claimed to have copied the account from the original document in the possession of an unnamed woman in Salt Lake City. The *Frasers* article was reprinted in New York in April, 1873, in *Eclectic* magazine.

In 1877, William D. Purple wrote his personal reminiscences of the trial at which he claimed to have taken notes. This was published on May 3, 1877, in the *Chenango Union*. In 1883, Bishop Daniel Tuttle published a copy of the alleged "official court record" in the **New Scharf-Herzog Encyclopedia**. He said he had obtained it from Emily Pearsall, niece of Justice Neely, who worked in the Episcopalian mission in Utah. She was probably the woman from whom Marshall had obtained his information. Tuttle later stated that he had given the original manuscript of the trial account to the Methodists. They printed a copy of it in the *Utah Christian Advocate* in 1886. The manuscript then disappeared and has not been seen since. The manuscript was at all times in the possession of the non-Mormons, and there is no evidence that any Mormon ever saw or examined it.

The Mormons have maintained that there is something fishy about the alleged court record. In 1831 Benton said that Smith had run afoul of the law some years previously. From 1826 to 1877 Purple supposedly told many people about the trial, recounting the testimonies and verdict in detail.<sup>32</sup> However, no mention of the trial appeared anywhere from 1826 to 1873 except for Benton's vague 1831 reference and an even vaguer reference made by Joel King Noble in 1842.<sup>33</sup> While Noble says Smith was condemned by the court, this does not prove that Smith was found guilty. According to John Reid, Smith's attorney at the 1830 trial, Smith was condemned by the court (i.e., given a tongue-lashing), despite having just been found *not guilty*.<sup>34</sup>

Keep in mind that after 1830 anti-Mormons were zealously digging for any dirt they could find about Smith. Not one of these truth-seekers ever reported talking to anyone who attended the trial, or any of those that Purple had told of the trial, or to Purple himself. Furthermore, Isaac Hale, with whom Smith boarded while working for Stowell, never mentioned the 1826 trial, though he made several critical statements about Smith and his religion. While negative evidence can never conclusively demonstrate that the alleged court record is not accurate, if, as this alleged record states, Smith admitted to glass looking and being a fraud, it seems incredible that only two vague references to

the trial appeared before 1873. The slightest hint that Smith was indeed found guilty of being a fraud would have caused his enemies to leave no stone unturned to find evidence of it.

On the other hand, if a trial took place and Smith was acquitted, the fact of a trial could not be used against him. His enemies would have no motive to pursue the question. Since neither Benton nor Noble provides a verdict, their statements provide no evidence for the trial outcome. They merely state that Smith was "condemned," which may simply mean, as it does in the case of the 1830 trial, that there were no grounds for finding him guilty, but the court, disbelieving his account of his religious activities, gave him a tongue-lashing and dismissed the case. In support of this view, it should be noted that eyewitness Purple states that Smith was acquitted in 1826, which statement directly contradicts the alleged court record.

Prior to the discovery of Neely's bill, several Mormon writers concluded that there was no 1826 trial.<sup>35</sup> This conclusion was based on inconsistencies in the various accounts of the trial, irregularities in the supposed proceedings, and the disappearance of the supposed original documents. In the absence of documentation that the trial actually took place, these writers were quite justified in their conclusions, especially considering that the non-Mormons had complete control of what documents were available. A comparison of Purple's account with that of the alleged court record provides many reasons for suspicion.

Now, however, we have evidence that some sort of judicial proceeding<sup>36</sup> did take place in 1826. Once again, Walters' incorrect reasoning is that the mere existence of the bills somehow proves that the printed accounts of this trial are accurate. The cost figures which appear in the *Frasers* article demonstrate that Tuttle did have a document that was somehow connected to the trial. This document has vanished, and only printings purporting to be accurate copies of it exist.

Nibley devoted twenty-three,<sup>37</sup> and Kirkham devoted more than 120 pages to the trial.<sup>38</sup> These men raised many questions about the authenticity of the printed alleged court record. Walters takes seven pages to deal superficially with only a few of these questions.<sup>39</sup> However, his readers have no way of knowing that, for the most part, these are the least significant objections these Mormons raised. Once again, Walters *appears* to be giving fair consideration to both sides of the issue, when in reality he is once again using special pleading to support his position that Smith was a fraud while ignoring evidence to the contrary.

The most significant objection Walters considers is the Mormon speculation that Marshall or Tuttle might have altered the document prior to publication.<sup>40</sup> Walters casually dismisses this by pointing out that the alteration would have been noticed by Miss Pearsall.<sup>41</sup> There are any number of scenarios which will account for the

consistency between the various publications of the alleged court record under the circumstances of forgery. Some of these scenarios are:

1. Using Justice Neely's actual court record for names, the date, amounts, etc., *anyone* could have written a fictitious account of the trial, which Miss Pearsall then took to Utah.
2. Miss Pearsall forged the alleged court record prior to giving Marshall a copy and Tuttle the original of her forgery.
3. Miss Pearsall had the genuine record in her possession, which Marshall used as the basis for his own forgery. Since Miss Pearsall died in 1872, she could not have known about this forgery. Bishop Tuttle, seizing the golden opportunity, then went along with Marshall's forgery, making his own document from Marshall's article. It was this document that Bishop Tuttle turned over to the Utah Christian Tract Society.

The reader is urged to come up with other scenarios on his own.

If a fictitious account was written, the points of difference between it and the original would be precisely the things the bills do not corroborate--the testimony and verdict. There would be no need to change the list of expenses, justices' names, trial date, or anything of that nature (indeed, it is the presence of some of those items in Neely's bill which lends credibility to the printed alleged court record). Therefore, the fact that the bills suggest that Tuttle may have had in his possession something traceable to a genuine Neely document does not verify the testimony in the printed versions.

At the close of his account of the trial, eyewitness Purple stated:

"It is hardly necessary to say that, as the testimony of Deacon Stowell could not be impeached, the prisoner was discharged..."<sup>42</sup>

This agrees with a brief 1835 reference Oliver Cowdery made to this court action:

"While in that country, some very officious person complained of him as a disorderly person, and brought him before the authorities of the county; but there being no cause of action, he was honorably acquitted..."<sup>43</sup>

Contrary to Walters' view that Purple misremembered the verdict,<sup>44</sup> this writer's experience suggests that Purple probably remembered the verdict correctly, though he may have misremembered details of the testimony. In 1978 this writer served on a jury that convicted the defendant of attempted theft. While the writer remembers the verdict clearly, he remembers only a few words of testimony verbatim, and this only because

that portion of the testimony startled everyone in the courtroom. Purple's account was written after the New York publication of Marshall's article, which Purple may have read, resulting in an "enhancement" of his memory of the trial.

It is precisely this possibility of incorporating second- or third-hand information into the mind that is the reason for judges' instructions to juries (including the jury the writer served on) that prior to being sequestered to reach a verdict, they should not discuss the case among themselves, read newspaper accounts of the case, or examine evidence not presented in the court.

There is no doubt that a fictitious account of the 1826 trial could have been written in such a manner as to be consistent with all that is known of the individuals involved and also be the source for all of the printed versions. The question is not *Could it have been done?* but *Was it done?* Ultimately, the question boils down to the honesty and integrity of Pearsall, Tuttle, and Marshall. Walters is unwilling to consider this question.

Without examining Neely's original record, it is impossible for one to prove or disprove that the printed "court record" is accurate. The bills verify the printed accounts only if one assumes that people who don't like Mormons never lie about them. There is, however, an ample history of men of supposed unquestioned integrity who have altered Mormon statements or have fabricated "evidence."<sup>45</sup> Here are a few examples:

1. In 1832, the Mormons printed a revelation in their Missouri newspaper, *The Evening and Morning Star*.<sup>46</sup> Eber D. Howe garbled this into a slanderous caricature which he published in his book as the Mormon belief.<sup>47</sup>
2. In 1839, the Reverend D. R. Austin discussed the Spaulding manuscript theory of the origin of the **Book of Mormon** with Matilda Davidson, the former wife of Solomon Spaulding. He then wrote a "statement," signed the lady's name, and sent it to the Reverend John Stoops, who had it published in the *Boston Recorder* in April, 1839. The first Mrs. Davidson knew of the "statement" she was supposed to have signed was when she read it in the newspaper.<sup>48</sup>
3. In 1844, Alexander Campbell and Adamson Bentley, two ministers and co-founders of what is known today as the Church of Christ, invented a conversation which was supposed to have taken place in 1827 between Bentley and Sidney Rigdon.<sup>49</sup> The purpose of this invented conversation was to prove that Rigdon and Smith modified the Spaulding manuscript into the **Book of Mormon**.

4. In 1906 lawyer Theodore Schroeder quoted from a work of fiction written by Parley P. Pratt in an attempt to demonstrate that Rigdon and Smith had met before the publication of the **Book of Mormon**.<sup>50</sup> However, Schroeder didn't tell his readers that he was quoting fiction. He presented Pratt's fiction as a speech given by Pratt in 1843 or 1844, thereby converting a novel into evidence for the Spaulding theory.<sup>51</sup>
5. More recently, the "Reverend" "Dr." Walter Martin,<sup>52</sup> until his death a very active anti-Mormon, stated that Smith was fined \$2.68 for glass looking by Justice Neely, thereby converting Neely's bill to the county for services rendered into a verdict and fine levied against Smith.<sup>53</sup>
6. Over a period of several years, Mormon apostate Mark Hofmann forged numerous documents which, if genuine, would have verified the anti-Mormon tales of Smith's early years. These discredited documents included the Anthon Transcript, a letter from Joseph Smith to Josiah Stowell, and a letter from Martin Harris to W. W. Phelps.<sup>54</sup>

So much for the honesty and integrity of ministers and other people, professional and otherwise. These examples demonstrate that the Mormons have ample reason to be suspicious of the motivations and methods of anti-Mormons, regardless of the reputation or position these people hold. The integrity of Pearsall, Marshall, and Tuttle is most certainly open to question.

While there are many discrepancies between Purple's reminiscences and the printed accounts of the trial published by Marshall and Tuttle, the most obvious one is the outcome of the trial. Purple stated that because of the testimony in Smith's favor, he was found not guilty and discharged, while according to the alleged court record, *despite* the testimony in Smith's favor, he confessed to being a scoundrel and was found guilty. Incredibly, Walters dismisses this discrepancy as minor, merely saying that Purple had the mistaken impression that Smith was discharged!<sup>55</sup>

## SUMMARY

Wesley Walters concludes that Smith was found guilty of being a glass looker in a court of law on March 20, 1826. To bolster his case, lend it credibility, and finally justify this conclusion he first discusses the 1830 trial. His approach is to give Benton's anti-Mormon account of the testimony without giving Smith's differing account or making it clear to readers that Benton was an enemy of Smith and the Mormons. He then tries to persuade the reader that Smith referred to himself as a glass looker by presenting Isaac Hale's testimony without noting that this evidence was eight-year-old hearsay from a man who had several grudges against Smith. Walters incorrectly

concludes that the finding of the justices' bills somehow verifies Benton's account of the testimony of the 1830 trial and his comments about Smith's glass looking.

Walters' approach to the 1826 trial is similar except his case is even weaker. He concludes that the finding of Justice Neely's and Sheriff DeZeng's bills somehow verify the printed version of the alleged court record of the trial, which first appeared in 1873, forty-seven years after the event. He does not take the Mormon objections seriously, but, while *appearing* to objectively evaluate them, for the most part he dismisses them with an airy wave of the pen. Without providing evidence, or informing his readers of his procedures, he assumes that the Mormon accounts can sometimes be trusted when mechanical details are the issue, but Mormon information is unreliable when dealing with anything of substance. Conversely, also without evidence, or informing his readers of the nature of his sources, he assumes that anti- Mormon information can be trusted implicitly.

Walters makes no attempt to explain the contents of Neely's bill, or the glass looker references of Hale and Benton, in a manner that is consistent with the Smith family's account of this period of their lives. Walters takes great pains to appear to consider both sides of the issue while actually presenting only one side.

## CONCLUSION

Walters' conclusions about the 1830 and 1826 trials are not well-supported by the evidence. Therefore, he uses an incredibly circuitous chain of tortured reasoning to convince the reader that he has proven his case. Walters is not an objective historian. He is an anti-Mormon of deepest feelings who finds that calm-toned pseudoscholarship and special pleading are useful tools for generating anti-Mormon feelings in his readers.

His ultimate objective in writing about the trials is to lend credibility to the printed version of the alleged "court record," which on its face has many strikes against it as being a truthful account of Joseph Smith's 1826 involvement with the law. If one were to apply Walters' reasoning to the trial of Jesus Christ before Pontius Pilate, one would be forced to conclude that the mere fact of Jesus' appearance before Pilate proves that the anti-Christian explanation for Christ's crucifixion was correct. This explanation states that Jesus was punished for his crimes.<sup>56</sup>

It is indicative of the strength of the Mormon position that Walters' scribal gymnastics were considered necessary in this attempt to discredit Joseph Smith.

## NOTES

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  27. Smith, 1853:84. Smith, 1958:82.
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  29. Smith, 1853:86. Smith, 1958:84.
  30. Smith, 1853:84-85. Smith, 1958:81-82.
  31. Smith, 1853:91-92. Smith, 1958:92. HC I:17.
  32. William D. Purple, "Joseph Smith, The Originator of Mormonism: Historical Reminiscences of the Town of Afton," *Chenango Union*, May 3, 1877, as reprinted in Francis W. Kirkham, **A New Witness for Christ in America** (Brigham Young University, 1959):362. Hereafter referred to as Purple, 1877.
  33. Joel King Noble, letter dated March 8, 1842 to Jonathon B. Turner, as printed in Wesley P. Walters, "From Occult to Cult with Joseph Smith, Jr.", *The Journal of Pastoral Practice*, 1,2 (Summer 1977), as reprinted by Modern Microfilm Company, n.d.
  34. HC I:94, note.
  35. Francis W. Kirkham and Hugh Nibley, for example.



36. It is not the purpose of this paper to examine the question of what kind of proceeding occurred, whether it was what today would be called a preliminary hearing, or some kind of actual trial. There were several different types of trials at that place and time. See Gordon A. Madsen, "Joseph Smith's 1826 Trial: The Legal Setting," *BYU Studies* 30:2 (Spring 1990), 91-108. Madsen makes no attempt to determine whether the proceeding was a full-blown trial. He assumes it was. The purpose of his article is to determine what kind of trial Joseph Smith underwent.
37. Nibley, 1961:139-161.
38. Francis W. Kirkham, **A New Witness for Christ in America** (Brigham Young University, 1959):423-500; 1960:370-394, 467-469, 475-492.
39. Walters, 1974:143-149.
40. Walters, 1974:145.
41. Walters, 1974:145.
42. Purple, 1877:368.
43. Oliver Cowdery to W. W. Phelps, *Latter Day Saints' Messenger and Advocate*, II,1 (October 1835):201. Cowdery's reference is most definitely to the 1826 trial and not the 1830 trial. The context for the reference to a trial is Smith's work for Josiah Stowell, and his boarding with the Hales. After stating that Smith was acquitted, Cowdery goes on to say that
- "From this time forward he continued to receive instructions concerning the coming forth of the fulness of the gospel, from the mouth of the heavenly messenger until he was directed to visit again the place where the records was deposited."
- Thus it is clear that Cowdery was referring to a trial that took place while Smith was boarding with Hale and working for Stowell, before he received the plates.
44. Walters, 1974:
45. Examples 1-4 are found in B. H. Roberts, "The Origin of the Book of Mormon (A Reply to Mr. Theodore Schroeder)," *American Historical Magazine*, 3,6 (November, 1908):558-565; 4,1 (January 1909):40-44; 4,2 (March 1909):169-172. Hereafter referred to as Roberts.
46. "Extracts from the Laws for the Government of the Church of Christ," *Evening and Morning Star*, I,2 (July, 1832). See also **The Doctrine and Covenants of**

**The Church of Jesus Christ of Latter-Day Saints** (The Church of Jesus Christ of Latter-Day Saints, 1981) Section 42:43-52.

47. Howe, 1834:124.
48. Roberts, 1908:561-567.
49. Adamson Bentley, letter dated January 22, 1841, *Millennial Harbinger*, 1844:39 as reprinted in Roberts, 1909:40
50. Theodore Schroeder, "The Origin of the Book of Mormon," *American Historical Magazine*, 2,1 (January 1907):58-59.
51. Roberts, 1909:169-172.
52. Walter Martin was neither an ordained minister nor held an accredited doctorate. See Robert L. and Rosemary Brown, **They Lie in Wait to Deceive, III** (Brownsworth Publishing, 1986).
53. Walter Martin, **The Maze of Mormonism**, (Vision House Publishers, 1978):36. In addition, this author attended a meeting held on September 11, 1978, at Bear Creek Presbyterian Church in Lakewood, Colorado, when Walter Martin spoke about Mormonism. In that meeting he stated:

"Joseph Smith was convicted on March 20, 1826, of being a fortune teller, and for any of you Mormons in the audience who don't believe me, I have the evidence right here."

He then held up a photocopy of the Neely bill (which was taken from page thirty-three of Jerald and Sandra Tanner's **Mormonism: Shadow or Reality**), showed it to the audience, turned to it and appearing to read the bill, said:

"Joseph the glass looker, guilty, fined \$2.68."

He then turned to the audience and commented:

"He wasn't even a good enough fortune teller to get a decent fine."

The above information was recorded by the writer just twenty-one days after the meeting in a letter dated October 2, 1978, to Mr. Stanley W. Paher of Las Vegas, Nevada.

54. Siltoe and Roberts, 1988:543-544.
55. Walters, 1974:140-141.

56. Origen, **Against Celsus**, Book II, Chapter V, in Alexander Roberts and James Donaldson, eds., **The Ante-Nicene Fathers**, IV:431 .