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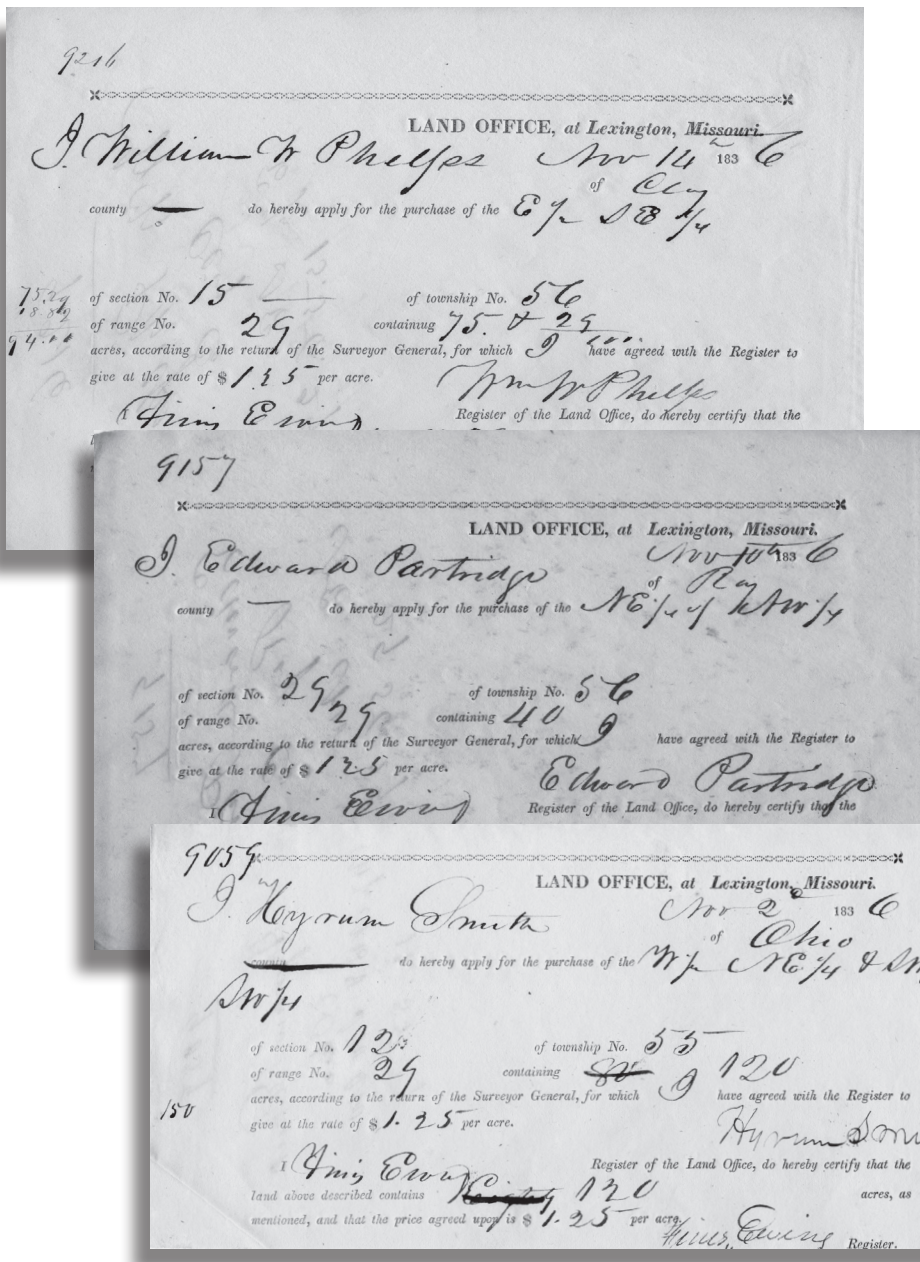


FIG. 1. Preemption applications. William W. Phelps, Edward Partridge, and Hyrum Smith filed these Missouri preemption applications in 1836. Each application is signed by the person making the preemption claim (bottom right) and the registrar, Finis Ewing (bottom left). Note that the acreage on Hyrum Smith's application is changed from 80 acres to 120 acres. Courtesy Church History Library.

Mormon Land Rights in Caldwell and Daviess Counties and the Mormon Conflict of 1838

New Findings and New Understandings

Jeffrey N. Walker

Persecution and the financial collapse in Kirtland in 1838 forced Joseph Smith to leave Ohio and headquarter the Church in Missouri, where thousands of Latter-day Saints had already settled. Once in Missouri, he and the other leaders faced the challenge of finding an affordable place for these newcomers to settle, as they previously had contributed their money and lands to help satisfy debts arising principally from the construction of the Kirtland Temple. Daviess County, Missouri, became a strategic settlement area for the Ohio Saints. Shortly after arriving in Missouri, Joseph and other leaders left Far West, Missouri, “to visit the north countries for the purpose of Laying off stakes of Zion, making Locations & laying claims [to land] for the gathering of the saints for the benefit of the poor.”¹ The “north countries” had yet to be fully surveyed, which allowed the Saints to settle on the land and qualify for preemption rights that did not require payment until the surveys were completed (fig. 1). After the surveying was finished, these same rights were an impetus for non-Mormon land speculators to force Mormons out of Missouri. The imminent vesting of these property rights further explains the frantic efforts to dislodge Mormons from their lands in Missouri altogether in late 1838. By examining preemption rights and land surveying practices, this article explains why Mormons settled in certain parts of northern Missouri and shows how some Missourians manipulated the situation for their own personal gain. The causes of Mormons’

1. Joseph Smith Jr., Scriptorium Book, May 18, 1838, MS, Church History Library, The Church of Jesus Christ of Latter-day Saints, Salt Lake City. See also Dean C. Jessee, *The Papers of Joseph Smith*, 2 vols. (Salt Lake City: Deseret Book, 1989–92), 2:243.

Jeffrey N. Walker

In 2005, as manager of the Legal and Business Series for the Joseph Smith Papers Project, Walker began exploring the 1830s legal and business dynamics of the Church in Missouri. He was forewarned that due to the devastations in the state during the Civil War, including the burning of most of the county courthouses, finding relevant legal documents would be challenging. With the assistance of researchers inside and outside the Church, Walker discovered a wealth of previously unknown legal documents kept by the federal, rather than the state, government. His article discusses the relevance of these documents to the 1838 persecutions of Mormons in Missouri.



forced expulsion from Missouri are multifaceted, but this additional information gives us a more complete perspective.²

Land Rights on the American Frontier

The growth of the United States from its original thirteen colonies cultivated the competing concepts of federal and states' rights. From their inception the colonies collectively expressed hesitation to transfer sovereign

2. The author is indebted to the groundwork done in exploring the difficult and often competing factors that led to what commonly is referred to as the 1838 Mormon War in Missouri. This includes the research done by Alexander L. Baugh, "A Call to Arms: The 1838 Mormon Defense of Northern Missouri" (PhD diss., Brigham Young University, 1996; Provo, Utah: BYU Studies and Joseph Fielding Smith Institute for Latter-day Saint History, 2000); Stephen C. LeSueur, *The 1838 Mormon War in Missouri* (Columbia: University of Missouri Press, 1987); Gordon A. Madsen, "Joseph Smith and the Missouri Court of Inquiry: Austin A. King's Quest for Hostages," *BYU Studies* 43, no. 4 (2004): 92–136; B. H. Roberts, *The Missouri Persecutions* (Salt Lake City: George Q. Cannon and Sons, 1900); and others. The author is also indebted to Lisa Harrison and Dawn Harpster for their work exploring land rights in northwestern Missouri.

rights to the national government.³ Led by the Jeffersonians, this philosophical stance remained the dominant view until after the War of 1812, when a shift to nationalism emerged. The “Great Triumvirate”—Representatives Henry Clay, Daniel Webster, and John C. Calhoun—led the post-war Congress to strengthen the national economy through a centralized system of improvements to the infrastructure of the federal government.⁴ This included creating a new national banking system, expanding tariffs, and improving roads and canals,⁵ as well as an aggressive plan to sell the vast accumulation of public lands to fund the growing national government.⁶ These policies fractured the already fragile political parties and alliances. While the Great Triumvirate experienced some initial success in strengthening the role of the federal government, opponents of federalism struck an almost fatal blow with the formation of the Democratic Party and

3. James Madison’s memorandum “Vices of the Political System of the United States” provides a useful recitation of the competing interests between federal and state rights. Robert Rutland and others, eds., *The Papers of James Madison* (Chicago: University of Chicago Press, 1975), 9:348–58.

4. See generally Merrill D. Peterson, *The Great Triumvirate: Webster, Clay and Calhoun* (New York: Oxford University Press, 1987). As longtime Speaker of the House, Henry Clay is attributed as coining the phrase “the American System” that embodies this movement. George Dangerfield, *The Awakening of American Nationalism, 1815–1828* (New York: Harper and Row, 1965), 207–8, 220–21.

5. David P. Currie, *The Constitution in Congress: The Jeffersonians, 1801–1829* (Chicago: University of Chicago Press, 2001), 250–89.

6. The Land Ordinance of 1785 represented the first attempt by the Continental Congress to address the disposition of public lands. This ordinance provided for the surveying of public lands into six-mile square townships, divided into thirty-six sections of one square mile, or six hundred forty acres each. Motivated primarily by the need to raise revenue for the fledgling government, the Land Ordinance of 1785 “laid the foundations for the public land system, followed in most essentials until 1862.” Henry S. Commager, *Documents of American History*, 7th ed. (New York: Appleton, Century, Crofts, 1963), 123. The 1785 ordinance led to the enactment of the 1787 Northwest Ordinance, which established the protocol for the admittance of new states to “share in the federal councils on an equal footing with the original States.” An Ordinance for the Government of the Territory of the United States North-west of the River Ohio (July 13, 1787), reprinted in *Statutes at Large of the United States of America, 1789–1873*, 17 vols., 1:52. The 1787 ordinance specifically prevented the states from interfering with the “primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers.” The Northwest Ordinance (July 13, 1787), reprinted in *Stats at Large of USA*, 1:52.

the election of Andrew Jackson as president in 1828.⁷ His election marked another shift in federal-state relations. As the voice for free enterprise, states' rights, and laissez-faire government,⁸ Jackson ironically expanded executive powers that increased the effort to reduce the federal debt by selling federal lands.⁹ It is within this national struggle that Mormons entered with their efforts to build communities on the western frontier.

Acquisition and Sale of Federal Lands

Virginia's cession of the Northwest Territory to the United States in 1784¹⁰ began the national government's concerted efforts to obtain vast areas of land. This included lands acquired by treaty from the Indians beyond the Ohio River,¹¹ and land cessions from the colonies such as North

7. Jackson's policy changes included a veto of the proposed Maysville Road bill. This veto put an end to most national support for roads and canals (May 27, 1830); a veto to recharter the Bank of the United States (June 10, 1832); and the Compromise Act of 1833 that reduced tariffs. An Act to Modify the Act of the Fourteenth of July, One Thousand Eight Hundred and Thirty-two, and All Other Acts Imposing Duties on Imports (March 2, 1833), 22nd Cong., 2d sess., ch. 55, sec. 1, *Stats at Large of USA*, 4:629. Glyndon Van Deusen, *The Jacksonian Era: 1828-1848* (New York: Harper and Brothers, 1959), 52-54, 64-65, 76-79.

8. Modeling his policies after James Madison's, Jackson noted in his inaugural address that his administration would "be animated by a proper respect for the sovereign members of our Union, taking care not to confound the powers they have reserved to themselves with those they have granted to the Confederacy." William MacDonald, *Jacksonian Democracy, 1829-1837* (New York: Harper and Brothers, 1906), 44. "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." James Madison, *The Federalist Papers* (New York: Penguin Books, 1987), 296.

9. MacDonald, *Jacksonian Democracy*, 253-54. Jackson's successful use of this policy eliminated the national debt during his tenure. Congress had previously authorized this process in 1790. An Act Making Provision for the [Payment of the] Debt of the United States (August 4, 1790), 1st Cong., 2d sess., ch. 34, sec. 22, *Stats at Large of USA*, 1:144.

10. *The Public Domain: Its History, with Statistics* (Washington, D.C.: Government Printing Office, 1880), 67-69. New York was the first colony to cede its western lands to the national government in 1782. This action by New York served as a precipitating factor that resulted in Virginia's significant cession in 1784. Shosuke Sato, *History of the Land Question in the United States* (Baltimore, Md.: John Hopkins University, 1886), 36-37.

11. The United States Supreme Court explained in *Johnson v. M'Intosh* that once the Indians' rights were extinguished by treaty, the federal government implicitly became the free and sovereign owner of the underlying land. *Johnson v. M'Intosh*, 8 U.S. 543, 593-94 (1823).

Carolina¹² and Georgia,¹³ as well as acquisitions from foreign nations such as France¹⁴ and Spain.¹⁵ Beginning in 1787 it was understood that these land acquisitions would eventually become states within the union.¹⁶ Although statehood put an end to the question of federal sovereignty over the territories, it did not extinguish federal ownership of the land, which was jealously retained.¹⁷ By 1829 eight new states had been formed in what

12. An Act to Accept a Cession of the Claims of the State of North Carolina to a Certain District of Western Territory (April 2, 1790), 1st Cong., 2d sess., ch. 6, *Stats at Large of USA*, 1:106.

13. Articles of Agreement and Cession (April 24, 1802), in *American State Papers, Public Lands*, 2 vols. (Washington: n.p., 1834), 1:125–26.

14. “Treaty between the United States of America and the French Republic,” April 30, 1803, *Stats at Large of USA*, 8:200, 202, art. 3.

15. “Treaty of Amity, Settlement, and Limits, between the United States of America and His Catholic Majesty [of Spain],” February 22, 1819, *Stats at Large of USA*, 8:252, 256–58, art. 6 (for Florida).

16. The Northwest Ordinance, adopted by the Continental Congress in 1787, expressly provided for division of the territory it covered into states, as Virginia had stipulated. See the Northwest Ordinance (July 13, 1787), reprinted in *Stats at Large of USA*, 1:53; *The Public Domain: Its History, with Statistics*, 68–69. See also the earlier congressional resolution inviting the states to cede their Western claims for this purpose. “Resolution,” September 6, 1780, in *Journals of the Continental Congress, 1774–1789*, ed. Worthington C. Ford and others (Washington, D.C., 1904–37): 17:806–7. All this was in accord with Maryland’s request in making the cession of Western claims a condition of ratifying the Articles of Confederation. See “Instructions of the General Assembly of Maryland,” May 21, 1779, in *Journals of the Continental Congress*, 14:619, 621–22. The treaties by which Louisiana and Florida were acquired prescribed prompt incorporation of the inhabitants into the United States. “Treaty between the United States of America and the French Republic,” 202; “Treaty between the United States of America and His Catholic Majesty,” 256–58.

17. The federal government historically disposed of public lands, including setting aside one section in every township for schools and a percentage of the proceeds for building roads. See An Act to Enable the People of the Eastern Division of the Territory Northwest of the River Ohio to Form a Constitution and State Government, and for the Admission of Such State into the Union, on an Equal Footing with the Original States, and for Other Purposes (April 30, 1802), 7th Cong., 1st sess., ch. 40, sec. 7, *Stats at Large of USA*, 2:175. This included the First Congress’s grants to Revolutionary veterans. See An Act to Enable the Officers and Soldiers of the Virginia Line on Continental Establishment, to Obtain Titles to Certain Lands Lying Northwest of the River Ohio, between the Little Miami and Sciota (April 10, 1790), 1st Cong., 2d sess., ch. 40, *Stats at Large of USA*, 1:182. The Harrison Land Act of 1800 allowed settlers to purchase up to three hundred twenty acres within the Northwest Territory for \$2 per acre. Under the 1800 act the purchaser was required to pay 25 percent of the purchase price up front and the remaining in installments over four years. See An Act to Amend the Act entitled

were previously federal territories—Ohio, Tennessee, Indiana, Louisiana, Mississippi, Illinois, Alabama, and Missouri.¹⁸

Andrew Jackson recognized that the revenue generated by the sale of these public lands on the rapidly expanding western frontier could, in short order, eliminate the national debt.¹⁹ By his fourth annual report to Congress in 1832, Jackson proposed that inasmuch as the goal of selling public lands to satisfy “the expenses of the [Revolutionary] war” had been met, these lands no longer needed to serve as a source of revenue, but rather could “be sold to settlers . . . at a price barely sufficient to reimburse” the government for its costs.²⁰

Both the power to sell public lands and the establishment of the process for such sales rested securely in the U.S. Constitution.²¹ The need to superintend the sale of public lands was recognized in 1812 with the establishment of the General Land Office (GLO) within the Department of Treasury,²² which was authorized to subdivide the public domain into land

“An Act Providing for the Sale of the Lands of the United States, in the Territory Northwest of the Ohio, and Above the Mouth of Kentucky River” (May 10, 1800), 6th Cong., 1st sess., ch. 55, *Stats at Large of USA*, 2:74. Under the Land Act of 1820 the amount of land available was reduced to eighty acres and the price set at \$1.25 per acre. The 1820 act also discontinued the use of credit, thereby requiring full payment at the time of purchase. See An Act Making Further Provision for the Sale of the Public Lands (April 24, 1820), 16th Cong., 1st sess., ch. 51, *Stats at Large of USA*, 3:566. See generally R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815–1840*, 2 vols. (Bloomington: Indiana University Press, 1951), 1:102–8.

18. See David P. Currie, *The Constitution in Congress: The Federalist Period, 1789–1801* (Chicago: University of Chicago Press, 1997), 217–22.

19. In his first annual message to Congress in 1829, Jackson announced that he anticipated these funds would create a tax surplus. See James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (By the author, 1899), 2:450–51. This process to raise federal funds preceded the need for federal taxes.

20. Richardson, *Messages and Papers of the Presidents*, 600–601.

21. “The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” U.S. Constitution, art. 4, sec. 3.

22. Passed on April 25, 1812, “An Act for the establishment of a General Land Office in the Department of the Treasury” empowered the GLO to “superintend, execute, and perform, all such acts and things touching or respecting the public lands of the United States, and other lands patented or granted by the United States.” Opinions of the Attorney General (hereafter Ops. Atty. Gen.), no. 66 (July 4, 1836), *General Public Acts of Congress, Respecting the Sale and Disposition of the Public Lands, with Instructions Issued, from Time to Time, by the Secretary of the Treasury and Commissioner of the General Land Office, and Official Opinions*

districts for the sale and disposition of public lands.²³ Under the direction of the president, the GLO created local land offices to implement its mandate of aggressively selling public lands.²⁴

As waves of settlers moved west, these pioneers, often referred to as squatters, became an obstacle to the orderly sale of public lands. In response, the federal government severely limited the rights squatters would have to these frontier properties. The land policies adopted in 1785, and again in the Land Act of 1787, required competitive bidding on land in an attempt to discourage and often displace squatters. In 1807, Congress even gave the president authority to “employ such military force as he may judge necessary and proper, to remove from lands ceded or secured to the United States by treaty or cession as aforesaid, any person or persons who

of the Attorney General on Questions Arising Under the Land Laws, 2 vols. (Washington, D.C.: Gales and Seaton, 1838), 2:103–4.

23. Earlier legislation attempted to manage the sale of public lands. Congress experimented with a number of efforts, including raising the minimum price to as much as \$2 per acre (An Act Providing for the Sale of the Lands of the United States, in the Territory Northwest of the River Ohio, and above the Mouth of Kentucky River [May 18, 1796], 4th Cong., 1st sess., ch. 29, sec. 4, *Stats at Large of USA*, 1:467; An Act to Amend the Act entitled “An Act Providing for the Sale of the Lands of the United States, in the Territory Northwest of the Ohio, and above the Mouth of Kentucky River” [May 10, 1800], 6th Cong., 1st sess., ch. 55, sec. 5, *Stats at Large of USA*, 2:74; An Act Making Provision for the Disposal of the Public Lands in the Indiana Territory, and for Other Purposes [March 26, 1804], 8th Cong., 1st sess., ch. 35, sec. 5, *Stats at Large of USA*, 2:279), lowering the minimum amount purchased from six hundred forty acres to three hundred twenty acres (Act of May 10, 1800, ch. 55, sec. 4, *Stats at Large of USA*, 2:74), then to one hundred sixty acres (Act of March 26, 1804, ch. 35, sec. 10, *Stats at Large of USA*, 2:281), to eighty acres (An Act Making Further Provision for the Sale of the Public Lands [April 24, 1820], 16th Cong., 1st sess., ch. 51, sec. 1, *Stats at Large of USA*, 3:566 [codified at 43 U.S.C. 672], repealed by An Act to Repeal Obsolete Statutes, and to Improve the United States Code, Public Law 547, *U.S. Statutes at Large* 46 [1930]: 1029), and finally to forty acres (An Act Supplementary to the Several Laws for the Sale of Public Lands [April 5, 1832], 22nd Cong., 1st sess., ch. 65, *Stats at Large of USA*, 4:503 [codified at 43 U.S.C. 673]), repealed by Federal Land Policy and Management Act, Public Law 94–579, sec. 703(a), *U.S. Statutes at Large* 90 (1976): 2789.

24. “The President of the United States is hereby authorized to remove and establish said [land] office[s] at any suitable place within the said district.” An Act Authorizing the President of the United States to Remove the Land Office in the District of Lawrence County, in the Territory of Arkansas (March 2, 1821), *General Public Acts*, ch. 257, 1:339.

shall hereafter take possession of the same, or attempt to make a settlement thereon.”²⁵

In an effort to protect themselves from these laws, squatters formed claim associations. The primary purpose of these associations was to intimidate speculators, often referred to as claim jumpers, from bidding on land improved by a squatter. One historian explained, “These associations were makeshifts to tide the settlers over until Congress should enact a law which would give them proper legal protection, or until they were able to pay for their claims.”²⁶ While these associations were formed to protect squatters from the law, the associations were almost universally accepted by public opinion. As one newspaper observed, “It is useless to say anything in justification or explanation of combinations of this character, as they have become a part of the established common law of the West, and are based upon that fundamental element of democracy—popular will, and the first law of nature—self-defence [*sic*].”²⁷

Within this setting the first universal preemption laws were enacted in 1830.²⁸ Preemption was the process whereby individuals secured a preference right to purchase public land they had improved and inhabited.²⁹ The leader of the movement was Thomas Hart Benton, one of the first two senators from Missouri (fig. 2). Shortly after his first election to the Senate, Benton introduced legislation aimed at protecting squatters, who composed

25. An Act to Prevent Settlements Being Made on Lands Ceded to the United States, until Authorized by Law (March 3, 1807), 9th Cong., 2nd sess., ch. 46, *Stats at Large of USA*, 2:445.

26. George M. Stephenson, *The Political History of the Public Lands from 1840 to 1862: From Pre-emption to Homestead* (New York: Russell and Russell, 1967), 21.

27. *St. Peter's Courier* (Nicollet County, Minnesota Territory), April 26, 1855, as quoted in Stephenson, *Political History*, 21n6.

28. An Act to Grant Pre-emption Rights to Settlers on the Public Lands (May 29, 1830), 21st Cong., 1st sess., ch. 208, *Stats at Large of USA*, 4:420–21. The full text of the 1830 act appears in appendix A. While this was the first universal preemption law, it was not the first preemption law. “In the country northwest of the Ohio, and above the mouth of the Kentucky River, as early as May 10, 1800, and afterwards in Michigan Territory, in Illinois Territory, in lands south of Tennessee, in the Louisiana purchase, in Florida, and in Missouri Territory, in particular cases, and on special conditions, varying in each of those localities, pre-emption rights were granted by various statutes, notwithstanding intrusions on the public lands had been prohibited by the Act of March 3rd, 1807.” W. W. Lester, *Decisions of the Interior Department in Public Land Cases, and Land Laws* (Philadelphia: H. P. and R. H. Small, 1860), 355.

29. Lester, *Decisions of the Interior*, 355.



FIG. 2. Missouri Senator Thomas Hart Benton, a leading advocate for settler land rights. His efforts resulted in the enactment of the first national preemption law in 1830. Courtesy Church History Library.

much of his constituency.³⁰ Four years later the Pre-emption Act of 1830 was passed as the first of its kind to extend preemptive rights to “every settler or occupant of the public lands” who was in possession at the date of passage and had cultivated any portion of the land not to exceed one hundred sixty acres.³¹ This law originally was limited to one year, but it was extended by subsequent acts on July 14, 1832; March 2, 1833; June 19, 1834; June 22, 1838; and June 1, 1840.³²

Because of the historical objections to squatters, those filing for preemptive claims were concerned whether their filings would result in legally recognized rights. Squatters’

30. See William M. Meigs, *The Life of Thomas Hart Benton* (Philadelphia: J. B. Lippincott, 1904). Benton sponsored several bills during his first term that laid the groundwork for the enactment of the 1830 act. These efforts centered on a gradual reduction to the price of the land according to the number of years it was on the market. Once the land was reduced to twenty-five cents per acre, the land would be donated in lots of eighty acres to the actual settlers. Meigs, *Life of Thomas Hart Benton*, 165–69.

31. The Missouri Supreme Court in *Pettigrew v. Shirley*, 9 Mo. 683, 686 (1846), summarized the 1830 act as follows: “In 1830 (May 29), a new species of pre-emptioners is recognized by Congress. The proof of the pre-emption was still required to be made to the satisfaction of the register [registrar] and receiver, but the time of making the proof was construed to extend to the time fixed for the expiration of the law, and the lands to be affected by it were construed to be lands which had been in market for years, as well as those which had never been offered for sale. The provisions of this act were continued from time to time until the final expiration of the act of June 22, 1838.”

32. In *Isaac v. Steel*, 4 Ill. 97, 3 Scam. 97 (1841), the Illinois Supreme Court articulated that the extension of the 1830 act, “with a full knowledge of the construction placed on the one which it revived, congress must be supposed to have adopted that construction and sanctioned it, as no restrictive clauses are to be found in the last mentioned act. The same construction was also adopted by the community in general. . . . If the construction given to these acts should be thought not to be correct, it having been acquiesced in for so long a time, and so many titles obtained by virtue of it, and the laws themselves having expired by their own limitation, it would be useless now to disturb it.” See *Pettigrew v. Shirley*, 9 Mo. 683, 687–88 (1846).

anxieties were founded, in part, in the tentative nature of unconsummated preemption rights. Such rights could be lost either by settlers' failure to pay the required price or by the lapsing of the act awaiting extension.³³ The U.S. Supreme Court addressed this dynamic in *Lytle v. Arkansas*:

The claim of a preemption is not that shadowy right which by some it is considered to be. Until sanctioned by law, it has no existence as a substantive right. But when covered by the law, it becomes a legal right, subject to be defeated only by a failure to perform the conditions annexed to it. It is founded in an enlightened public policy, rendered necessary by the enterprise of our citizens. The adventurous pioneer, who is found in advance of our settlements, encounters many hardships, and not unfrequently dangers from savage incursions. He is generally poor, and it is fit that his enterprise should be rewarded by the privilege of purchasing the favorite spot selected by him, not to exceed one hundred and sixty acres.³⁴

Congress faced these concerns every year or so in anticipation of the preceding preemption act lapsing. Timing further exacerbated this situation. Congress anticipated that preemptive claims could be granted and the final sale consummated within the span of the act or its extension, but this was not the case. Western expansion far outpaced the GLO's ability to manage the growth.

The Preemption Process

The implementation of the preemption process was designed to be straightforward. Yet, implementation proved both complicated and time consuming. During the 1830s, the GLO published hundreds of circulars to clarify the process, while the U.S. Attorney General's Office issued an equal number of interpretative opinions.

First, a settler would go to the local district GLO and complete a short application that included an affidavit verifying that he was improving and occupying the land to which the preemption right was being claimed.³⁵

33. These concerns ultimately led to an entire overhaul of the preemptive system in 1841, referred to as the Distribution Act of 1841 (An Act to Appropriate the Proceeds of the Sales of the Public Lands, and to Grant Pre-emption Rights [September 4, 1841], 27th Cong., 1st sess., ch. 16, *Stats at Large of USA*, 5:453), as supplemented by An Act to Authorize the Investigation of Alleged Frauds under the Pre-emption Laws, and for other Purposes (March 3, 1843), 27th Cong., 3rd sess., ch. 86, *Stats at Large of USA*, 5:619.

34. *Lytle v. Arkansas*, 50 U.S. 314, 333–34 (1850) (applying the 1830 act).

35. The individual who wanted to assert a preemptive right must do so by "producing his proof of such right at any time within *one year* from the date of

(Figure 1 shows the preemption forms filed by Hyrum Smith and others in 1836.) Second, the president would set the sale date for all land sold under the act or its extension.³⁶ It was then the responsibility of the surveyor general over the subject area to have the land adequately surveyed and verified and the corresponding paperwork physically returned to the local land office.³⁷ The local land office would then publish notice that the surveys

the act.” *General Public Acts*, GLO, Circular no. 495 (May 23, 1831). The settler was limited to “not more than one hundred and sixty [acres], or a quarter section.” *General Public Acts*, GLO, Circular no. 497 (May 31, 1831). Occupancy was defined: “Where a man finds a piece of land which no other possesses, and enters upon the same, this gains a property, and has a title by occupancy.” *General Public Acts*, GLO, Circular no. 505 (April 19, 1832). The U.S. Attorney General clarified this requirement noting that “occupant” or “settler” meant “the party shall have a direct personal connexion with the land claimed by him.” *General Public Acts*, Ops. Atty. Gen., no. 72 (March 29, 1837). The following was the form affidavit promulgated by the secretary of treasury for establishing a preemptive claim: “I [or we] do solemnly swear [or affirm] that the land above described is intended to be entered for my [or our] personal benefit, and not in trust for another; and that the same is intended for the purpose of cultivation, or [as the case may be] for the use of my [or our] improvement, situate on the — of section No. —, township No. —, range No. —.” This affidavit had to be made before a justice of the peace or other person legally authorized to administer oaths. *General Public Acts*, GLO, Circular no. 506 (May 8, 1832). Interestingly, incorporated churches were able to exercise preemption rights. See *General Public Acts*, GLO, Circular no. 520 (May 29, 1833). Further, preemptive rights could be sold. As the GLO explained, “Where A settled on and cultivated a tract of public land in 1833, and prior to the 19th June, 1834, sold his right to B, who continued to improve and occupy the same on that day, B is regarded as entitled to the benefits of the act.” *General Public Acts*, GLO, Circular no. 543 (October 21, 1834). Occupancy by proxy (one doing it for another’s benefit) was not permitted. See *General Public Acts*, Ops. Atty. Gen., no. 64 (June 21, 1836).

36. *Pettigrew v. Shirley*, 9 Mo. 683, 687 (1846). “The fourth section provides that the [1830] act shall not delay the sale of the public lands beyond the time appointed for that purpose by the President’s proclamation, and that the provisions of the act shall not be available to any one who fails to make the proof and payment required before the day appointed for the commencement of the sales of lands including the tract or tracts on which the pre-emption is claimed.” See *Smith v. Mosier*, 5 Blackf. 51, 55 (Ind. S. Ct. 1838), which notes that the president sets the date for the land that he has authorized to be sold; see also Benjamin H. Hibbard, *A History of the Public Land Policies* (New York: Macmillan, 1924), 105. Regarding preemption rights, Hibbard states that “under the direction of Congress land was ‘proclaimed’ by the President for sale.”

37. Surveying was a complicated process. Initial physical surveys were contracted out by the federal government to be done by trained surveyors. These surveys were done by range often before the creation of counties. While this general survey gave enough detail to know what section and range a claim was being

were complete and the scheduled sale would take place.³⁸ Such notice was required to be published within a reasonable time before the sale date.³⁹

made in, the general survey did not provide sufficient detail about the particulars within the township where the land was located. Once the state legislature created a county, the responsibility to draw townships using these physical surveys fell to the surveyor general. These “township plats” identified the acreage to, at a minimum, one-tenth of an acre. See generally J. B. Johnson, *The Theory and Practice of Surveying* (New York: John Wiley and Sons, 1904), 176–79.

Once completed, these township plats had to be verified and then certified by the surveyor general’s office and sent to the local land office, referred to as the “return date.” The land could not be sold until the local land office had received back the certified township plats. “The law contemplates that payment be made for the lands claimed by the pre-emption right, at the period when the proof shall be filed.” *General Public Acts*, GLO, Circular no. 486 (September 14, 1830). “No payments, however, are to be received on account of pre-emption rights duly established, in cases where the townships are known to be surveyed, but the plats whereof are not in your office.” *General Public Acts*, GLO, Circular no. 488 (February 7, 1831); see also *General Public Acts*, GLO, Circular no. 589 (May 7, 1836). *General Public Acts*, GLO, Circular no. 607 (April 7, 1837) explained that payment should be refused on land where “the plats of survey of the land claimed were not at that time in your [registrar’s] office.” The sale was considered “substantially made when the proof is filed and the pre-emption admitted, and only awaits the coming in of township plats to be perfected.” *General Public Acts*, Ops. Atty. Gen., no. 64 (June 21, 1836).

Importantly, if the surveys were not returned before the end of the term of the act under which the preemptive right was asserted, such rights would be tacked onto the successor act. “In this way each person entitled to a pre-emption may make good his entry within the period of one year from the day wherein the plat of the township is returned to your office, unless the land shall previously be proclaimed for sale, in which case the pre-emption must be paid for prior to the day of sale.” *General Public Acts*, GLO, Circular no. 522 (July 2, 1833). The GLO further explained: “The intention of the act of 14th of July, 1832, being to grant an extension of time, wherein to establish and pay for their valid claims, to those who, although settlers and cultivators in the mode and at the time contemplated by the original act, were nevertheless de-barred from receiving its benefits by reason of the surveys, which were in process of execution within the legal term, not being officially returned and filed in the district land office until after the expiration of such term; it has been determined to be but a fair, plain, and satisfactory interpretation of the law, that the same remedial benefits are designed to be revived and extended to those who, under precisely similar circumstances, were unable to avail themselves of the act of 29th of May, 1830, revived by that of the 19th of June, 1834.” *General Public Acts*, GLO, Circular no. 610 (June 9, 1837), italics in original.

38. When surveys were not returned in a timely fashion, such notice had to be cancelled or postponed. See appendix B for an example of a postponement as proposed by the GLO.

39. What constitutes a reasonable time was not defined in the 1830 act and, therefore, was the subject of several GLO circulars. As explained by the GLO, “In

Third, if a settler failed to pay for the preemptive land by the specified sale date, his preemptive right lapsed, and the land could be sold to any other interested party.⁴⁰

The implementation of this process proved to be thorny. The difficulty centered on the rapid influx of settlers on land for which the township surveys had not been completed and certified by the general surveyor's office (fig. 3). In these situations, the prospective settler chose the land he wanted to claim (up to one hundred sixty acres), began cultivating it, and then went to the local land office to complete a preemptive application. When such land had not been certified with a township survey (thereby determining to one-tenth of an acre the actual public land being purchased), the local land office registrar could verify only that the applicant had adequately occupied and cultivated the subject land and accept the application for it. This often was referred to as "proofing" the

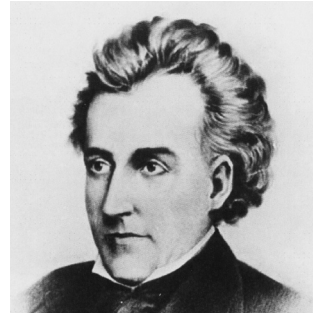


FIG. 3. Daniel Dunklin, who resigned as Missouri governor to accept the federal position as surveyor general for Arkansas, Illinois, and Missouri. As surveyor general, Dunklin directed the completion of the surveying of Caldwell and Daviess counties in Missouri. Courtesy Church History Library.

reference to all cases of this kind, you are explicitly to understand that, so soon as the [township] plats are received at your office, and the parties are advised by you of the fact, payment must be made without any unnecessary delay; and, if not made, the land will be regarded as subject to private entry." *General Public Acts*, Circular No. 503, GLO (February 8, 1832), emphasis added; see also *General Public Acts*, Circular No. 611, GLO (October 11, 1837).

40. "The right to enter pre-emptions within any tract of country offered at public sale *subsequent* to the date of the act, ceases at the time of the commencement of such public sale." *General Public Acts*, GLO, Circular no. 486 (September 14, 1830), italics in original. As the GLO advised, "Where the right of pre-emption exists to lands not at this date subject to private entry, and that will be offered at public sale prior to the 5th of October next, the evidence of claim under the act must be filed with you [the local registrar], and the purchase-money paid prior to the day of the public sale, otherwise the pre-emption will not be recognised." *General Public Acts*, GLO, Circular no. 506 (May 8, 1832). The GLO further clarified that "the provisions of the act [including the extensions thereto] are not available to any person or persons who shall fail to make the proof and payment required before the day appointed for the commencement of the sales of lands, including the tract or tracts on which the right of pre-emption is claimed." *General Public Acts*, GLO, Circular no. 535 (July 22, 1834).

preemption claim.⁴¹ The registrar could not accept payment, as the exact price could be determined only after the township plats were received (fig. 4). Therefore, preemptive claims were general rights (for example, 40 acres) until the surveys were completed, whereupon they became specific rights (for example, 39.2 acres).

Once the verified survey was received by the local land office, the registrar published a notice of the receipt, thereby informing the settler that he must pay for the land by the predetermined sale date or be subject to having the land sold at public sale to any interested party (fig. 5). Unexpectedly, however, there was a persistent, and sometimes significant, delay in getting the verified township plat surveys back to the local land office. A settler could file an application for his land and then wait months, or sometimes even years, for the surveying process to be completed, thereby triggering the requirement to pay for the land.

This lengthy surveying process caused untold complications. Daniel Webster aptly articulated the problems in a January 29, 1838, speech on the Senate floor over the proposed extension of the Act of 1830 for two more years:

We are not now at the point when preemption rights are first to be granted; nor can we recall the past. . . . There are now known to be many thousands of settlers on public lands, either not yet surveyed, or of which the surveys are not yet returned, or which, if surveyed, are not yet brought into the market for sale.

The first question naturally is, How did they come there? How did this great number of persons get on the public lands? And to this question

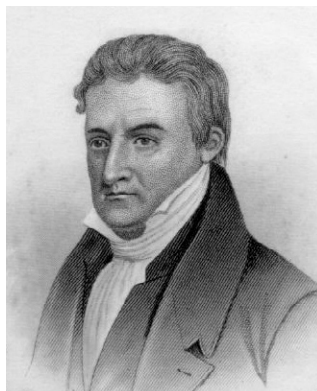


FIG. 4. Cumberland Presbyterian Minister Finis Ewing, who persecuted Mormons in Jackson County in 1833. In 1836 he moved to Lexington, Missouri, where he became registrar of the local GLO. In that position, Ewing oversaw land rights (including preemption claims) in both Caldwell and Daviess counties. Courtesy Cumberland Presbyterian Church.

41. See, for example, *Gaines v. Hale*, 16 Ark. 9 (1855). “The pre-emptor was unable to make proof of settlement, as required by law, because the surveys had not been made, and the plats filed in the Land Office; the land was reserved from sale by act of Congress of 20th April, 1832, before the passage of the act of 14th July, 1832, extending the benefits of the act of 29th May to those who were unable to make proof, because the surveys had not been made.”

it may be truly answered, that they have gone upon the lands under the encouragement of previous acts of Congress. They have settled and built houses, and made improvements, in the persuasion that Congress would deal with them in the same manner as it has, in repeated instances, dealt with others.⁴²

The failure of plats to arrive at the local land office, thus preventing a sale to proceed, was “the worst bottleneck in the administrative system. . . . The end result was the cancellation or postponement of a number of public sales that had been advertised.”⁴³ Understanding these realities provides additional insight into the Mormon leadership’s decision to explore areas that had not been fully surveyed. In fact, these dynamics of the preemption process lay at the center of the Latter-day Saints’ 1838 expansion into Daviess County, Missouri.

Mormons on the Missouri Frontier

Mormons first came to Missouri as missionaries in 1830. By summer 1831, Mormons had settled in Jackson County, and, reinforced by prophetic decree, Church members sought to build Zion there.⁴⁴ Joseph Smith laid out a city for the Saints, including a site on which to construct a temple. Throughout 1832, Mormons arrived to support the establishment of this new Church center, and by the end of that year nearly twelve hundred Latter-day Saints lived in Missouri.⁴⁵

Such rapid growth proved dangerous, as the non-Mormon population feared losing political and economic standing.⁴⁶ Competing religionists

42. *The Works of Daniel Webster*, 11th ed. (Boston: Little, Brown, 1858), 4:392.

43. Malcolm J. Rohrbough, *The Land Office Business: The Settlement and Administration of American Public Lands, 1789–1837* (New York: Oxford University Press, 1968), 260.

44. Smith taught, “Wherefore, this is the land of promise, and the place for the city of Zion. . . . Behold, the place which is now called Independence is the center place; and a spot for the temple” (D&C 57:2–3).

45. Richard Neitzel Holzapfel and T. Jeffery Cottle, *Old Mormon Kirtland and Missouri: Historic Photographs and Guides* (Santa Ana, Calif.: Fieldbrook Productions, 1991), 162.

46. Richard L. Bushman provides a useful discussion about the often competing factors that led to the expulsion of Mormons from Jackson County in 1833, including, but not limited to, the growing political power of Mormons, their stance on slavery, involvement with the Indians, and religious beliefs. Richard L. Bushman, “Mormon Persecutions in Missouri, 1833,” *BYU Studies* 3, no. 1 (1960): 11–20. See also T. Edgar Lyon, “Independence, Missouri, and Mormons, 1827–1833,” *BYU Studies* 13, no. 1 (1972): 6–7; William Berrett, *The Restored Church: A Brief History of the Growth and Doctrines of The Church of Jesus Christ of Latter-day*

and early settlers⁴⁷ fueled the simmering discontent, which erupted in violence in July 1833 when a mob razed W. W. Phelps's home and printing office.⁴⁸ Such violence abated only briefly, eventually leading to the forced surrender and expulsion of virtually the entire Mormon community from Jackson County in November 1833.⁴⁹

These displaced Saints found temporary refuge in nearby Clay County, immediately north and across the Missouri River. They sought help from the state government, and the Saints were advised to seek redress through legal channels.⁵⁰ Smith also organized a thousand-mile march with provisions and paramilitary support from Kirtland. However, none of these endeavors proved effective. Efforts to strengthen the Mormon community in Clay County were doomed as the initial kindness of the locals dissipated and was replaced by prejudice and enmity.

Desperate for a solution, Church leaders contemplated moving north to the unsettled Missouri frontier. Fearing the same persecutions might

Saints, 15th ed. (Salt Lake City: Deseret Book, 1973), 157–58; Roberts, *Missouri Persecutions*, 73–75.

47. Joseph Fielding Smith aptly summarized, “Others taking part in this unlawful action were some of the judges, constables, sheriffs, military officers and the following clergymen: Reverends McCoy, Kavanaugh, Hunter, Fitzhugh, Pixley, Likens, Lovelady and Ewing. These ministers were Methodists, Presbyterians, Baptists, and of other sects located in Jackson County. Reverend Ewing had declared and circulated the statement that ‘Mormons were the common enemies of mankind, and ought to be destroyed.’” Joseph Fielding Smith, *Church History and Modern Revelation*, 4 vols. (Salt Lake City: Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints, 1946–49), 2:182–83. Reverend Finnis Ewing took an active role in property disputes in Daviess County in 1838, having become by that time the land agent over the local land office in Jefferson City, Missouri.

48. Roberts, *Missouri Persecutions*, 85–97.

49. Milton V. Backman Jr., *The Heavens Resound: A History of the Latter-day Saints in Ohio, 1830–1838* (Salt Lake City: Deseret Book, 1983), 170–72.

50. Missouri Governor Daniel Dunklin suggested that Mormons take their complaints to the courts for redress. Governor Dunklin sent a letter dated October 19, 1833, to Bishop Edward Partridge and other Mormon leaders in Jackson County, advising them to “make a trial of the efficacy of the laws; the Judge in your circuit is a conservator of the peace. If an affidavit is made before him by any of you, that your lives are threatened and you believe them in danger, it would be his duty to have the offenders apprehended and bind them to keep the peace.” “History of Joseph Smith,” *Times and Seasons* 6 (May 1, 1845): 880. The Mormons retained four attorneys—Alexander Doniphan, David Atchison, Amos Rees, and William Wood—to seek legal assistance to return to their homes in Jackson County. Roger D. Launius, *Alexander William Doniphan: Portrait of a Missouri Moderate* (Columbia: University of Missouri Press 1997), 15.

follow, they sought legal help to establish a safe location to resettle. One of the Church's lawyers and also a member of the Missouri legislature representing Clay County, Alexander Doniphan⁵¹ agreed that moving into the unsettled areas might alleviate the tensions between the groups.⁵²

51. Alexander Doniphan proved an invaluable friend of Joseph Smith and the Church. Even prior to Doniphan's intercession during the early days of the Mormon conflict in fall 1838, Joseph and Alexander had already become close friends, evidenced by Joseph and Emma naming their son born June 2, 1838, Alexander, after Doniphan. See Buddy Youngreen, "Joseph and Emma: A Slide-Film Presentation," *BYU Studies* 14, no. 2 (1974): 208. Doniphan joined the minority Whig party in Missouri in 1836 and was elected to the State House of Representatives for Clay County that same year, replacing his professional colleague David Atchison. Doniphan's election was virtually unanimous. He took his seat in the lower house for the Ninth General Assembly on November 21, 1836. Interestingly, he did not seek reelection. Launius, *Alexander William Doniphan*, 31–35, 41. While Doniphan worked on several pieces of legislation during this 1836 session, his work to find a "resting place" for Mormons proved to be his most notable effort. He was appointed to chair a committee in the House to consider the creation of new counties. On December 17, 1836, his committee presented its report and accompanying bill to the House, recommending, in pertinent part, the creation of Caldwell and Daviess counties. The House passed this bill on December 23 and the Senate followed on December 27. Governor Boggs signed the bill into law on December 29. Launius, *Alexander William Doniphan*, 39. See also *Laws of the State of Missouri, Passed at the First Session of the Ninth General Assembly, Begun and Held at the City of Jefferson, on Monday, the Twenty-First Day of November, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Six*, 2d ed. (St. Louis, Mo.: Chambers and Knapp, Republican Office, 1841), 38–47; *Journal of the House of Representatives of the State of Missouri at the First Session of the Ninth General Assembly, November 29, 1836* (Bowling Green, Mo.: Office of the Salt River Journal, 1837), 86, 188–90, 217–19.

52. Some have characterized the Missouri legislature's actions as effectively creating an Indian reservation for Mormons, but since the Mormons were U.S. citizens, any such efforts would run afoul of constitutional principles. Thus, there is no reference to that effect in the legislation that created Caldwell County. Most historians dispute that any legal agreement to confine Mormons to Caldwell County was ever contemplated, at least by Mormons. "Mormon sources show an understanding not to relocate main groups in Clay or Ray, but there was no visible promise to be contained in Caldwell." Richard L. Anderson, "Clarifications of Boggs's 'Order' and Joseph Smith's Constitutionalism," in *Regional Studies in Latter-day Saint History: Missouri*, ed. Arnold K. Garr and Clark V. Johnson (Provo, Utah: Department of Church History and Doctrine, Brigham Young University, 1994), 31–32. B. H. Roberts similarly reasoned: "Of course the matter of Caldwell being a county created and set apart for 'Mormon' settlement, as also the agreement on the part of the saints that they would not settle in other counties, 'without the previous consent of the settlers already there,' had to be merely an understanding between the Missourians and the saints, as no such agreement

Doniphan sponsored a bill during the late-1836 legislative session that would allow the Saints to settle in the entire unincorporated territorial northern portion of Ray County (fig. 6).⁵³ This bill met with stiff opposition by the representatives from Ray County, resulting in a substantive compromise—the creation of two new counties in Missouri, Caldwell and Daviess, by the end of 1836. Caldwell County was informally designed to accommodate Mormons. This compromise also enlarged Ray by four townships (giving Ray twenty townships rather than the typical sixteen) and left Caldwell County with only twelve townships.⁵⁴

Anticipating the creation of these counties and seeking to avoid the vicissitudes of persecution, Mormons began moving northward even before the official creation of Caldwell or Daviess counties.⁵⁵ Mormons built their

could be enacted into law since it would be an abdication [*sic*] of one of the rights of citizenship under the Constitution on the part of the saints; and an assumption of unconstitutional power on the part of the Missourians, for them to forbid citizens of the state of Missouri or of any other state of the Union to settle where they pleased, since it is a part of the Constitution itself that ‘the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.’” B. H. Roberts, *A Comprehensive History of The Church of Jesus Christ of Latter-day Saints, Century One*, 6 vols. (Provo, Utah: Corporation of the President, The Church of Jesus Christ of Latter-day Saints, 1965), 1:419; but also see Walter B. Stevens, *Centennial History of Missouri: One Hundred Years in the Union, 1820–1921* (St. Louis, Mo.: S. J. Clarke Publishing, 1921), 108. Stevens explained: “Segregation was proposed as a remedy for the Mormon troubles in Missouri. . . . It was understood that the Mormons would be permitted to move in and organize the new county. . . . They were not to settle in any other county except by permission of two-thirds of the residents of the township in which they desired to locate.” Doniphan also appeared to believe Mormons had made some kind of tacit agreement not to expand outside Caldwell County, as he is quoted in the *Kansas City Journal* more than forty-five years later saying that troubles in northwestern Missouri were caused when Mormons “commenced forming a settlement in Davis [*sic*] county, when, under their agreement, they had no right to do so.” Launius, *Alexander William Doniphan*, 39.

53. Launius, *Alexander William Doniphan*, 39–40.

54. Nearly twenty-four miles square and situated to the north of Caldwell County, Daviess County was named after Colonel Joseph H. Daviess, a commander killed at the battle of Tippecanoe in Indiana in 1811 and a friend of Doniphan’s father. Gallatin was established as the county seat. See *The History of Daviess County, Missouri* (Kansas City, Mo.: Birdsall and Dean, 1882), 235.

55. A review of the “Original Entries for Lands in Caldwell County” proves that a significant number of settlers had purchased or otherwise obtained land rights there before to the formal establishment of the county in 1836. While some of these settlers were of other faiths, the records indicate the vast majority of settlers were Mormons. My review of these records shows that 205 different settlers acquired property rights in what became Caldwell County before January 1837.

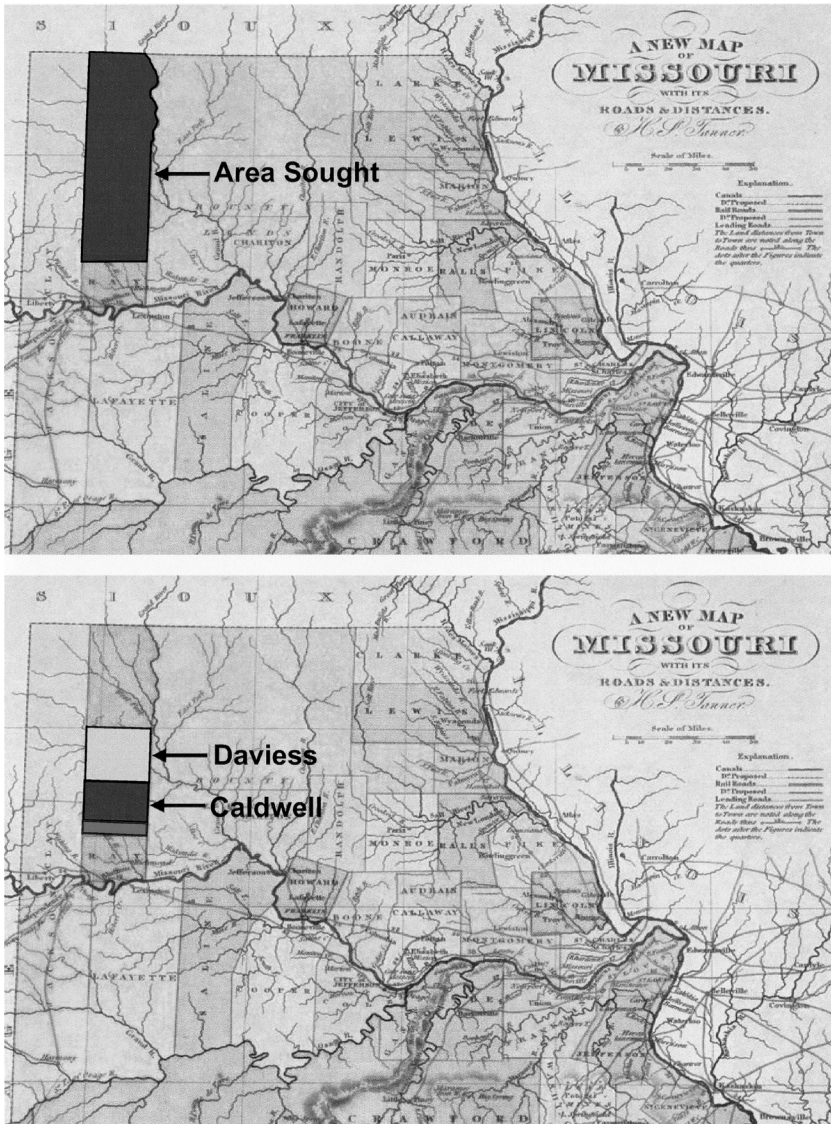


FIG. 6. 1836 Missouri map with superimposed outlines comparing the area Mormons originally sought to settle after being driven from Jackson County in 1833 and from Clay County in 1836 with the compromise establishment of Daviess and Caldwell counties. This map also shows the four additional townships in Ray County that resulted from the compromise. Even before the creation of these new counties, Mormons had moved into both Daviess and Caldwell counties. Courtesy Church History Library.

main settlement in Mirable Township (Caldwell County) and christened the town Far West. With the possibility of settling in northern Missouri and thereby avoiding further persecution, emigration to Caldwell County exploded. Between 1836 and 1838 “more than 4,900 of them lived in the county, along with a hundred non-Mormons.” The Far West area boasted “150 homes, four dry goods stores, three family groceries, several blacksmith shops, two hotels, a printing shop, and a large schoolhouse that doubled as a church and a courthouse.”⁵⁶ A second community emerged on Shoal Creek, sixteen miles east of Far West, called Hawn’s Mill.⁵⁷ By 1838, Hawn’s Mill was home to approximately twenty families, with another forty or more families settling on farms in the vicinity.⁵⁸ The pace of emigration to these settlements accelerated following the economic problems in Kirtland and Smith’s decision to move from Ohio to Missouri that spring.⁵⁹

Of these 205 settlers, 171 acquired their property in 1836, and almost all of this group appear to be Mormons. They acquired property predominately in (1) Mirable Township, where Far West was later established, (2) Rockford Township, directly south of Mirable, and (3) Rockford and the townships along Shoal Creek, which included the Hawn’s Mill community. Copies of the “Original Entries for Lands in Caldwell County,” Caldwell County Recorder’s Office, Kingston, Missouri, as cited in Leland H. Gentry, “The Land Question at Adam-on-di-Ahman,” *BYU Studies* 26, no. 2 (1986) 10n14.

56. James B. Allen and Glen M. Leonard, *The Story of the Latter-day Saints* (Salt Lake City: Deseret Book, 1976), 116–17. See also Robert Allen Campbell, *Campbell’s Gazetteer of Missouri* (St. Louis, Mo.: R. A. Campbell, 1874).

57. Named after Jacob Hawn (traditionally spelled “Haun,” but a review of applicable land records, as well as the marker on his grave evidences that he spelled his name “Hawn”), who built a gristmill on Shoal Creek. Jacob Hawn settled on approximately forty acres on Shoal Creek and entered his claim for this property on December 7, 1835, more than a year before the creation of Caldwell County. See “Original Entries for Lands in Caldwell County,” Caldwell County Recorder’s Office, Kingston, Missouri. His mill site became the center of the community commonly referred to as Haun’s Mill. Mormons settled along the east-west running Shoal Creek, building multiple mills around Hawn’s own mill. Consequently, this area comprised some of the most valuable lands owned by Mormons.

58. Alma R. Blair, “The Haun’s Mill Massacre,” *BYU Studies* 13, no. 1 (1972): 62–63; Beth Shumway Moore, *Bones in the Well: The Haun’s Mill Massacre, 1838; A Documentary History* (Norman, Okla.: Arthur H. Clark, 2006), 29, 39; www.farwesthistory.com/haunsm.htm.

59. An account of this three-month journey is in Kirtland Camp, Journal, March–October 1838, MS, in the handwriting of Elias Smith, Church History Library.

Ohio Saints Relocate to Northern Missouri

The exodus from Kirtland was costly. Significantly in debt from the construction of the Kirtland Temple, the failure of the Kirtland Safety Society, and the expense of defending lawsuits, the Church was on the edge of financial collapse. While many have argued that the Saints left Kirtland to escape their financial obligations, the facts demonstrate a concerted and largely successful effort by Church leaders to satisfy obligations before their departure. To meet these obligations the leaders sold most Church properties. Many individuals also donated funds from the sale of their homes, farms, and businesses to pay Church debts.⁶⁰ The financial sacrifice by the Kirtland Saints was considerable, and it represented an unmistakable commitment to their religion and a social conscience of financial responsibility despite persecution.

Such sacrifice also meant that most of these people arrived in Missouri without sufficient financial means to purchase property. Journals recount the destitute condition of these Saints.⁶¹ The plight of Saints from Ohio, coupled with the ongoing emigration of new converts (most of whom also arrived without financial means), placed significant pressure on Church leaders to find an affordable place for them to settle. From this perspective it seems logical that leaders looked to unsurveyed counties in northern Missouri for new settlements.

Smith, his family, and other key leaders left Kirtland for Far West on January 13, 1838,⁶² arriving in March. The following month brought significant changes in Missouri Church leadership, including the excommunication of

60. "Of the \$52,251.44 recorded debt of Joseph and the [Temple] Committee, \$47,062.83 was paid. There were no defrauded creditors, but rather paid creditors, 90% of whose claims were satisfied in a reasonably prompt time frame. And that payment came largely after the Saints had abandoned Kirtland and the Symbol of their sacrifice, the Temple." Gordon A. Madsen, "The Impact of Litigation against Joseph Smith and Others on the Kirtland Economy" (presented at the Mormon Historical Society 2005, Killington, Vermont), 17, copy in author's possession.

61. "Typical of Saints who faced the uncertainties of the exodus from Kirtland with little or no money or means was Truman O. Angell, the skilled temple carpenter. He and his wife and two small children left in a one-horse wagon. Their first day out of Kirtland, he had to spend his last money to repair the wagon, leaving him with 'a rickety wagon, a balky horse, not a penny in my pocket, a family to feed and a thousand miles to go.'" Karl R. Anderson, *Joseph Smith's Kirtland: Eyewitness Accounts* (Salt Lake City: Deseret Book, 1989), 238.

62. Manuscript History of the Church, B-1, 780, Church History Library.

former stalwarts Oliver Cowdery and David Whitmer.⁶³ By May, Smith's focus turned to the anticipated arrival of a large contingent of Saints from Kirtland. On May 18, Smith and other key leaders, including Sidney Rigdon, David Patten, and Edward Partridge, left Far West "to visit the north countries for the purpose of Laying off stakes of Zion, making Locations & laying claims [to land] for the gathering of the saints for the benefit of the poor."⁶⁴

Some claim that the basis for Mormons' expansion into Daviess County (the "north countries") was that Caldwell County had filled up to overflowing with Mormons.⁶⁵ A review of Missouri land sales, however, belies this conclusion. While Mirable Township, the location of Far West, had been substantially settled or claimed, most of the other eleven townships in Caldwell County remained almost entirely available through 1838 (fig. 7).⁶⁶ Consequently, the decision to settle the poor on unsurveyed land was not motivated by a lack of available real property in Caldwell; rather the decision stemmed from a need to find affordable land.⁶⁷ By the time Smith arrived in Missouri in early 1838, Caldwell County had been completely surveyed, including the return of township plats. Therefore,

63. Donald Q. Cannon and Lyndon W. Cook, eds., *Far West Record: Minutes of The Church of Jesus Christ of Latter-day Saints, 1830–1844* (Salt Lake City: Deseret Book, 1983), 162–69, 176–78.

64. Smith, *Scriptory Book*, May 18, 1838. See also Jessee, *Papers of Joseph Smith*, 2:243.

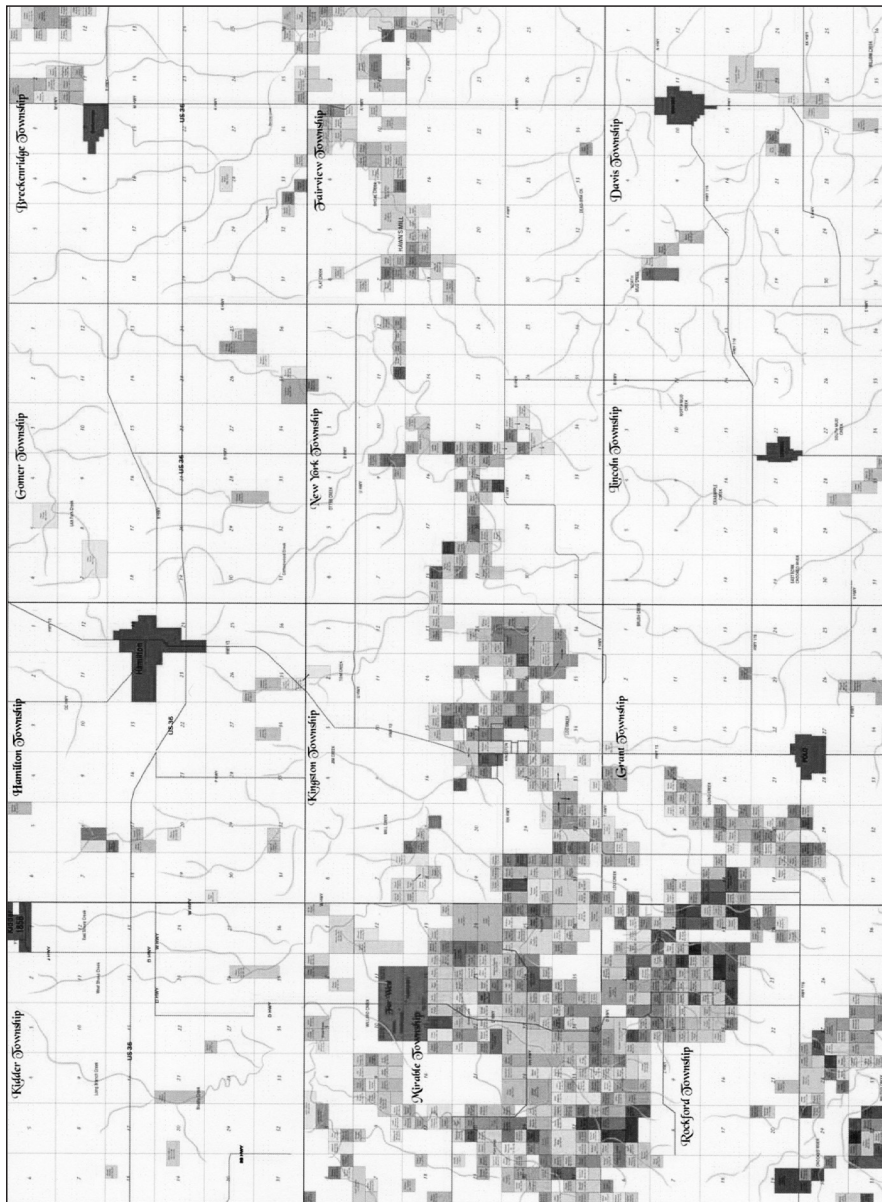
65. See, for example, Sidney Rigdon, *An Appeal to the American People: Being An Account of the Persecutions of the Church of Latter Day Saints; and of the Barbarities Inflicted on Them by the Inhabitants of the State of Missouri*, 2d ed. (Cincinnati, Ohio: Shepard and Stearns, 1840), 15; *Elders' Journal* 1, no. 3 (July 1838): 33.

66. A review of the "Original Entries for Lands in Caldwell County" demonstrates that through 1838 the only substantial settlement in Caldwell County took place in Mirable Township and Rockford Township, which was immediately south of Mirable. In addition, scattered settlements were made along Shoal Creek, ending with Hawn's Mill in Fairview Township. Based on these maps, conservative estimates would indicate less than a third of the county was settled by 1838 when Mormons began a substantial move into Daviess County. See illustration 8.

67. Interestingly, the Saints again explored the benefits of preemptive rights when looking for land in western Iowa in 1848: "This land is not yet in market. When it comes into market, the Saints, being the first settlers, will, by law, have certain pre-emption rights, and the first chance of purchasing the lands." Orson Pratt, "First General Epistle to the Saints throughout England, Wales, Scotland, Ireland, and Adjacent Countries," *Millennial Star* 10 (August 15, 1848): 242.

Walker: Mormon Land Rights in Caldwell and Daviess Counties and the Mormo

FIG. 7. Original entry map of Caldwell County, Missouri, showing all patents that the federal government issued, mostly to Mormons, through 1838. This pattern shows that Mormons predominately settled in Mirabile Township (*far left center square*), where they founded Far West (*large dark rectangle*), and then east along Shoal Creek to Hawm's Mill in Fairview Township (*far right center square*). Therefore, most of Caldwell County was unsettled when the Saints started moving into neighboring Daviess County, not shown on the map. Missouri Land Records Office.



property in this county had to be paid for at the time of settlement.⁶⁸ It appears Smith's initiative to scout out communities in Daviess County was motivated by the realization that this land had not yet come onto the market because verified township surveys had not been completed. The law allowed impoverished Saints to secure preemption rights to their property without having to pay until the township plat surveys were completed. Because of the backlog on these surveys, new settlers anticipated working their land and generating the income necessary to purchase the property (at \$1.25 per acre).

Mormons in Caldwell and Daviess counties actively participated in this government program of preemption.⁶⁹ As discussed herein, Joseph Smith and other Church leaders were aware of the preemption process and encouraged the Saints to utilize this option as they moved to Missouri.⁷⁰

Details about these possibilities had generally been communicated to the departing Saints in Ohio. Writing to her brother Levi on February 19, 1838, from Kirtland, Hepzibah Richards, the sister of Willard Richards, explained:

Since I wrote last the state of things has remained much the same. Less excitement at times. The members of the Church are leaving as fast as possible. A steamboat is to be chartered about the middle of March which will take off a great many families. They are driven out of this place [Kirtland] as truly as the Saints were driven out of Jackson county four years ago, though in a different manner. There they were driven by

68. The township plat for Mirable Township (location of Far West) was completed on January 15, 1835. Township Plat for Mirable Township, Church History Library. Furthermore, various preemption applications filed by Saints in 1836 in Caldwell County all show that the property description to the tenth of an acre and the calculations of paying \$1.25 per acre are noted on the applications. These references prove that the surveys for these lands had been completed and the settlers were required to pay for their land at that time. See, for example, Caldwell County, Missouri Preemption Applications, Church History Library.

69. See appendix C for a list of references in the Mormon redress petitions that specifically mention loss of preemption (duplicates) rights.

70. Joseph Smith and Sidney Rigdon wrote to Steven Post, a member of the Second Quorum of the Seventy residing in Kirtland: "As to this, there are thousands gathering this season The road is full companies of presently 10, 20 & 30 <wagons> arrives, some almost daily One company which is the com[,] is close here with one hundred wagons John E. Page report says is comming less than one hundred miles of this place, with 64 wagons and the road is litterly lined with wagons between here and Ohio, The work of the gathering is great. all the saints should gather as soon as possible, urge all the saints to gather immediately if they possibly can." Joseph Smith and Sidney Rigdon to Stephen Post, September 17, 1838, Church History Library.

force of arms; here by persecution, chiefly from the dissenters. People who go from here to Missouri by water take passage at Wellsville [Columbiana Co., Ohio] about 100 miles south of here, on the Ohio river; you can find it on the Atlas; then follow on down the Ohio and up the Missouri river quite to the western part of the State of Missouri. There are thousands of acres of good land which have never been in the market; people take up lots and settle on them, then petition for preemption rights, which are always granted. The probability is it will never come into the market, and if it does, it will be sold cheap.⁷¹

During his May 1838 trip to the “north countries,” Joseph Smith met with Saints who already had moved into Daviess County⁷² and, under his direction, organized the city of Adam-ondi-Ahman. This location was to be a central gathering place for the anticipated influx from Kirtland as well as for converts from other areas.⁷³ Known as the Kirtland Company,

71. Selections from Letter of Hepzibah Richards, February 19, 1838, cited in *Journal History of the Church*, February 19, 1838, Church History Library, also available on *Selected Collections from the Archives of The Church of Jesus Christ of Latter-day Saints*, 2 vols. (Provo, Utah: Brigham Young University Press, 2002), vol. 2, DVD 1, microfilm copy in Harold B. Lee Library, Brigham Young University, Provo, Utah. After a series of meetings between March 6 and 17, 1838, in Kirtland, Ohio, the remaining leaders made the decision to move the entire body of the Church residing in Kirtland and surrounding areas to Missouri. See Joseph Smith Jr., *History of The Church of Jesus Christ of Latter-day Saints*, ed. B. H. Roberts, 2d ed., rev., 7 vols. (Salt Lake City: Deseret Book, 1971), 3:87–95.

72. Daviess County was both a beautiful and a promising land. As one writer described: “There is no county in the State to rank in advance of Daviess for agricultural advantages and grazing. The soil is from one to six feet deep, very rich, and productive—a soil that will not wear out. The formation of the surface of this country displays a natural drainage in its highest perfection. . . . The ascents and descents of the country are not so abrupt as to prevent the tillage of the entire surface of the land. The soil of the Grand River Valley, which runs diagonally through the county from northwest to southeast, is not surpassed by any other county in the Union. This county contains about two-thirds prairie and one-third timber lands; the timber being situated advantageous to the prairie, as if placed by human hands for the convenience of man.” *Daviess County, Missouri: Its History, Description, and Resources* (St. Joseph, Mo.: Joseph Stearn Printing, 1875), 1, as quoted in Reed C. Durham Jr., “The Election Day Battle at Gallatin,” *BYU Studies* 13, no. 1 (1972): 37.

73. For example, on July 28, 1838, Smith left Far West for Adam-ondi-Ahman to assist in the settlement of Saints from Canada, noting converts “are emigrating numerously to this land from all parts of the [country].” Smith, *Scriptory Book*, July 28, 1838. See also Jesse, *Papers of Joseph Smith*, 2:262–63. Joseph Smith and Sidney Rigdon also discussed this gathering in their letter to Steven Post dated September 17, 1838. See footnote 70.

a mile-long wagon train of more than five hundred Saints left Kirtland on July 6, 1838, heading to Daviess County.⁷⁴

Lyman Wight, one of the original Mormon settlers in Daviess County was a firsthand witness of the Mormon emigration:

Joseph Smith, together with many others of the principal men of the church, came to my house, and taking a view of the large bottom in the bend of the river, and the beautiful prairies on the bluffs, came to the conclusion that it would be a handsome situation for a town. We therefore commenced surveying and laying off town lots, and locating government lands for many miles north of this place. This beautiful country with its flattering prospects drew in floods of emigrants. I had not less than thirty comers and goers through the day during the three summer months, and up to the last-mentioned date [last of October], there were upwards of two hundred houses built in this town, and also about forty families living in their wagons.⁷⁵

At its height, Adam-ondi-Ahman alone boasted a population of fifteen hundred and more than two hundred homes.⁷⁶ By fall 1838, Caldwell and Davies counties had become home to roughly ten thousand Mormons.⁷⁷

74. An account of this three-month journey is in Kirtland Camp, Journal, March–October 1838.

75. *History of the Reorganized Church of Jesus Christ of Latter Day Saints*, 8 vols. (Independence, Mo.: Herald House, 1967–76), 2:155–56.

76. Approximately seventy families from Adam-ondi-Ahman moved to Carroll County and settled DeWitt. These Saints modeled DeWitt after the design introduced by Joseph Smith for both Independence and Far West with homes and gardens within the town and large co-op farms outside of town. In late summer 1838 mobbers laid siege to DeWitt, preventing the Saints from harvesting their crops outside of town. This siege resulted in the abandonment of DeWitt in October 1838 and these Saints moved to Far West. It is beyond the scope of this article to discuss the preemption rights the Saints in DeWitt claimed or lost. See LeSueur, *1838 Mormon War in Missouri*, 30, 101–11.

77. Early Church leaders consistently estimated that there were “about 15,000 souls” driven from Missouri in 1838. See, for example, Memorial, Joseph Smith, Sidney Rigdon, and Elias Higbee, Washington, D.C., to the Honorable Senate and House of Representatives of the United States, January 27, 1840, photocopy of original in National Archives and Church History Library; “The Petition of the Latter-day Saints, commonly known as Mormons,” 26th Congress, 2d sess., H. Doc. 22 (December 21, 1840), 5. However, modern historians put the number closer to ten thousand. See, for example, Susan Easton Black and Richard E. Bennett, eds., *A City of Refuge, Quincy, Illinois* (Salt Lake City: Millennial Press, 2000), 6, 24.

Missouri Land Sales in Late 1838

Although thousands of Mormons had settled new communities in Caldwell and Daviess counties in 1838, these inhabitants soon faced expulsion. The cause of that expulsion is multifaceted. From the uniqueness of Mormons' faith, both doctrinally and in practice, to their apparent disposition for allying with the Indians, their overall antislavery stance, and their rapidly growing political power and resulting voting blocs, the non-Mormon residents of Daviess and the surrounding counties grew increasingly uncomfortable with their Mormon neighbors. Much has been written in the defense of the motives of both groups.⁷⁸ Some have acknowledged that some Missourians enjoyed an unintended windfall of improved land from Mormons' removal.⁷⁹ However, a closer look at events leading to the infamous Extermination Order evidences that some Missourians carefully orchestrated the persecution in October and November 1838 specifically to gain control of Mormons' preemption rights. In fact, this appears to be central to the motives of these Missourians. They did not reap an unintended windfall; rather they orchestrated the deliberate taking of these rights.⁸⁰

78. See Baugh, "A Call to Arms"; LeSueur, *1838 Mormon War in Missouri*; Bushman, "Mormon Persecutions in Missouri, 1833"; Roberts, *Missouri Persecutions*. It is beyond the scope of this paper to provide further discussion on these aspects that contributed to the Mormon conflicts in 1833 and again in 1838. Suffice it to say that some commentators cast a broad net of blame on both Mormons and Missourians. Certainly blame can be found on both sides of the conflict. In terms of proportionality, however, the ultimate harm inflicted by Missourians on Mormons dwarfs any reasonable, comparable acts by Mormons. How can one compare the Battle of Crooked River with the Hawn's Mill Massacre? Or compare the burning of Jacob Stolling's store in Gallatin with the Extermination Order?

79. See, for example, LeSueur, *1838 Mormon War in Missouri*, 237–39.

80. Mormons living in Caldwell and Daviess counties were fully aware of the preemption rights to the lands they were occupying and cultivating. Pursuant to Smith's revealed direction (see D&C 123:1–6), the Saints prepared redress petitions after being expelled from Missouri. In late 1839 these petitions were taken to Washington, D.C., where 491 of them were presented. Additional efforts to obtain redress occurred in 1840 and 1842. A final attempt was made in fall 1843. More than 770 petitions were prepared. See Paul C. Richards, "Missouri Persecutions: Petitions for Redress," *BYU Studies* 13, no. 4 (1973): 520–43. For those petitions involving property losses in Daviess County, there are numerous references to the loss of preemption rights for cultivated properties. See appendix C for a summary of these petitions, as compiled in Clark V. Johnson, ed., *Mormon Redress Petitions: Documents of the 1833–1838 Missouri Conflict* (Provo, Utah: BYU Religious Studies Center, 1992).

By presidential mandate, the date for the sale of surveyed property under the extended Act of 1830,⁸¹ which included the land in Daviess County, was set for November 12, 1838. As previously discussed, this date could be extended only in the event the verified surveys (the “township plats”) were not returned within a reasonable time of the sale date so appropriate notice could be given to the settlers who held pending preemption claims, requiring them to pay for their property. If the verified surveys were not returned, the preemptive rights were required to be extended to the next sale date pursuant to the anticipated next extension of the act. The citizens in Daviess County were aware of this sale date, as notice of the sale had been published in various local newspapers beginning in August 1838.⁸² The only question was whether the returned township surveys would arrive in time to allow for the proper conduct of the land sales.

In mid-September 1838, the surveyor general’s office in St. Louis, Missouri, completed the township surveys for Daviess County subject to sale on November 12, 1838. These plats were certified and sent to that office by the surveyor general, Daniel Dunklin (former Missouri governor).⁸³ The plats were received by the local registrar, Finis Ewing, at the district office in Lexington, Missouri, on approximately September 24, but the public was not made aware of that receipt until it was published on October 21.⁸⁴ This, therefore, was the first date the Saints could have learned they would definitely be required to pay for their preemption claims by November 12.

81. The 1830 act was extended by Congress on June 22, 1838. This extension granted preemption rights to all settlers who were occupying and cultivating land at the time the extension was passed.

82. Such notice to anyone with possible claims was published in the *Missouri* (St. Louis) *Argus* starting on August 5, 1838, and reprinted every week through August, September, and October. The *Southern Advocate* (Jackson) also carried a similar notice in September 1838 and then every week through November. Leland H. Gentry, “The Land Question at Adam-ondi-Ahman,” *BYU Studies* 26, no. 2 (1986): 55n34.

83. Daniel Dunklin, as surveyor general, noted the surveys were “examined and approved” in St. Louis on September 15, 1838. These surveys were started by Joseph C. Brown and completed by Lisbon Applegate. See Township Surveys for Daviess County, September 15, 1838, Church History Library.

84. The delay in publishing this notice is somewhat suspect. While beyond the scope of this paper, evidence exists that Ewing helped orchestrate the taking of Mormons’ preemptive rights in Daviess County. The returned surveys had been received by the local land office in Lexington and published in the *Southern Advocate* (Jackson), October 21, 1838, 4. This notice informed the public that payment for preemption claims would be due by November 12, 1838.

It appears more than a coincidence that A. P. Rockwood reported on October 24, 1838, that the Saints' mail had stopped coming to Far West.⁸⁵

Before the publication of the October 21 notice, and as the predetermined sale date of November 12, 1838, moved perilously close, Mormons anticipated that the sale date likely would be moved to the following year. Consequently, by September 1838, Mormons in Daviess County had agreed to buy out their non-Mormon neighbors' preemptive rights and possessions. This option was confirmed by General H. G. Parks in writing to General David Atchison (fig. 8) on September 25, 1838: "On to-morrow, a committee from Daviess county meets a committee of the Mormons at Adam-on-diahmon, to propose to them to buy or sell, and I expect to be there."⁸⁶ Joseph Smith wrote on September 26, 1838, "The mob committee met a committee of the brethren, and the brethren entered into an agreement to purchase all the lands and possessions of those who desired to sell and leave Daviess county."⁸⁷ Shortly thereafter allegations arose that Mormons were burning homes and farms in Daviess County. Hyrum Smith

85. Rockwood notes, "Last night the Mail came and brought papers but not a single letter to any person it is supposed they were stoped by some evil minded person or persons, it is nothing unexpected to us that it is stoped, hereafter letters from you to us may be verry irregular. But from us to you they may be more regular as we can send them out of the City before we mail them. I wish you all to be verry particular in acknowledging letters that are sent that we may know what you have receivid." Albert Perry Rockwood, Journal, October 24, 1838, in handwriting of Phinehas Richards, Church History Library.

86. *Document Containing the Correspondence, Orders, &c in Relation to the Disturbances with the Mormons* (Fayette, Mo.: Boon's Lick Democrat, 1841), 33.

87. Manuscript History of the Church, B-1, addendum note U, 7. As soon as the agreement was reached, the high council of Adam-on-di-Ahman was immediately called, and Elders Don Carlos Smith, George A. Smith, Lorenzo D. Barnes, and Harrison Sagers were appointed to go to the churches in the south and east and raise men and means to fulfill the contract. "The mob left many houses burning, which they had set on fire before they had fled. These houses belonged to the Mormons, they having purchased the pre-emption rights from the people of Davies county." John Greene, *Facts Relative to the Expulsion of the Mormons or Latter Day Saints, from the State of Missouri under the "Exterminating Order"* (Cincinnati, Ohio: R. P. Brooks, 1839), 21. "After the mob had departed for Carroll county, the inhabitants of Daviess that had belonged to the mob, began to make proposals to the Saints, either to sell or buy. Two committees were appointed for this purpose, one on each part; after some arrangement in relation to the matter, the committee on the part of the Saints agreed to buy out all the possessions which the mob had in Daviess county, and purchases were making of their lands and crops (the land consisted in pre-emption rights, as the land in that part of the county had not as yet come into market) every day, and payment made until there were some twenty-five thousand dollars worth of property bought from the mob

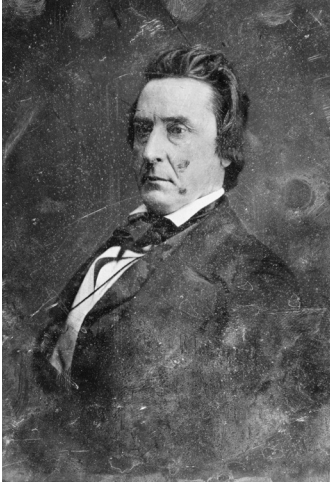


FIG. 8. David Atchison. Mormon leaders retained Atchison, a Missourian, as an attorney for the Church. In fall 1838 he brokered a deal between Mormons living in Adam-ondi-Ahman and local Missourians, allowing Mormons to buy land owned by those of other faiths who wished to sell and move out of the county. Unfortunately, mob members broke the agreement and laid siege to Mormons before driving them from their homes. Library of Congress.

later testified, referring to the October burnings allegedly perpetrated by Mormons, that “the houses that were burnt, together with the pre-emption rights, and the corn in the fields, had all been previously purchased by the Mormons of the people and paid for in money and with waggons and horses and with other property, about two weeks before.”⁸⁸

The Land Grab

Yet some Missourians were not appeased by the purchase of their land and possessions (or commitment to do so) by Mormons. These Missourians had no apparent intention of leaving Daviess County. The tenuous peace Mormons thought they had brokered was violated before it could be fully consummated.

By the third week in October these Missourians knew that the surveys had been properly returned and that Mormons’ preemption rights probably would be paid, thereby giving Mormons title not only to their preemptive claims, but also to the newly acquired claims from their neighbors. Some Missourians were determined to thwart this outcome. For example,

in improvements and crops.” Rigdon, *Appeal to the American People*, 26–27. See also “The Petition of the Latter-day Saints,” 7.

88. “Missouri vs. Joseph Smith,” *Times and Seasons* 4 (July 1, 1843): 248. Hyrum Smith’s entire testimony appears on pages 246–56.

Sashel Woods,⁸⁹ a Presbyterian minister and a leader in the military attacks on DeWitt, Adam-ondi-Ahman, and Far West,

called the mob together and made a speech to them, saying that they must hasten to assist their friends in Daviess county. The land sales (he said) were coming on, and if they could get the Mormons driven out, they could get all the lands entitled to pre-emptions, and that they must hasten to Daviess in order to accomplish their object; that if they would join and drive them out they could get all the lands back again, as well as all the pay they had received for them. He assured the mob that they had nothing to fear from the authorities in so doing, for they had now full proof that the authorities would not assist the Mormons, and that they might as well take their property from them as not.⁹⁰

The ensuing weeks evidenced the implementation of Woods's strategy by the Missourians.⁹¹ The siege of DeWitt, the Battle of Crooked River, and the Hawn's Mill Massacre proved that any peace Mormons thought they had purchased had been lost. According to Hyrum Smith, some Missourians were "doing every thing they could to excite the indignation of the Mormon people to rescue them, in order that they might make that a pretext of an accusation for the breach of the law and that they might the

89. Sashel Woods was a Cumberland Presbyterian minister and considered Finis Ewing his mentor. Reverend Ewing's animosity toward Mormons propelled him to be one of the key players in orchestrating their expulsion from Jackson County in 1833; see footnote 47. Ironically three ministers, Cornelius Gilliam, Samuel Bogart, and Sashel Woods, "led much of the opposition to the Saints." LeSueur, *1838 Mormon War in Missouri*, 247.

90. Rigdon, *Appeal to the American People*, 30–31. "It was during this time that the people of Daviess made sale of their lands and other property to the Saints, all the time saying to their particular friends, that they intended, as soon as they got pay for their lands and other property, to drive the Saints off, and take it by force from them. They declared that they were fools if they did not do so, seeing that the law could not be enforced against them for so doing." Rigdon, *Appeal to the American People*, 29. "The tiger spirit of the mob had grown upon its food. As the brethren left De Witt, Sashiel Woods called many of the mobocrats together and invited them to hasten into Daviess County to continue their work there. He said that the land sales were coming on, and that if the 'Mormons' could be first driven out the mob could get all the land entitled to preemption; besides, they could get back without pay the property already bought from them by the Saints. It was a welcome invitation, and, taking their artillery, this horde, with appetites whetted for their base and cruel work, departed for Adam-ondi-Ahman." George Q. Cannon, *Life of Joseph Smith the Prophet* (Salt Lake City: Deseret Book, 1964), 262.

91. Certainly Woods was not alone. Concurrent with his efforts, "Cornelius Gilliam was busily engaged in raising a mob in Platt and Clinton counties, to aid Woods in his effort to drive peaceable citizens from their homes and take their property." Rigdon, *Appeal to the American People*, 31.

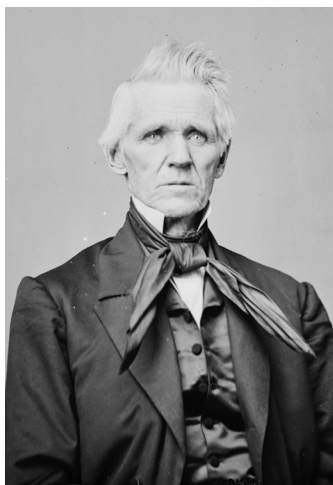


FIG. 9. Judge Austin A. King, who presided over a “Court of Inquiry” against Mormon leaders to determine whether there was sufficient evidence to hold them for trial. This hearing began on November 12—the exact day the Daviess County preemption land sales started—and lasted two weeks, preventing the Mormons from completing their preemption claims. Library of Congress.

better excite the prejudice of the populace and thereby get aid and assistance to carry out their hellish purposes of extermination.”⁹² That goal was furthered significantly by Missouri Governor Lilburn W. Boggs’s issuance of the infamous Extermination Order, on October 27, 1838, just six days after publication of the notice of sale.

The process of driving Mormons from Missouri is telling of Missourians’ motives. By November 1, 1838, massive numbers of troops forced a Mormon surrender at Far West. “The city was surrounded with a strong guard, and no man woman or child was permitted to go out or come in, under the penalty of death.”⁹³ Mormon travel throughout the northern counties was restricted from that point forward.⁹⁴

In addition to the travel restrictions, General John B. Clark of the Missouri militia commenced the process of systematically arresting key Mormons. By early November, Clark had arrested over fifty Church members.⁹⁵ These men were not only ecclesiastical leaders, they also were the most prominent landowners in Daviess County. They were taken to Richmond to appear before Judge Austin A. King (fig. 9). A preliminary hearing, or

92. “Missouri vs. Joseph Smith,” 246–47.

93. “Missouri vs. Joseph Smith,” 250.

94. “On his [General John B. Clark’s] arrival there [Far West], he placed guards around the town, so that no person might pass out or in without permission. All the men in town were then taken and put under guard, and a court of inquiry was instituted, with Adam Black on the bench.” Rigdon, *Appeal to the American People*, 46.

95. Madsen, “Joseph Smith and the Missouri Court of Inquiry,” 97.

“court of inquiry,” as it was then called, was conducted over two weeks to determine whether there was sufficient evidence to bind over (hold for trial) any of the arrested men.⁹⁶ It seems hardly a coincidence that the hearing began on November 12—the exact day the Daviess County preemption land sales started. These sales continued for the statutory two weeks, which ran exactly concurrently with the preliminary hearing. Those critical two weeks were the Mormons’ final opportunity to exercise their preemption rights. But during those two weeks, all Mormons in northwest Missouri were either in the midst of their preliminary hearing or “fenced in by the gentiles”⁹⁷ at Far West—with travel and communication restricted.

One of the purposes behind the restriction on travel is revealed through its results. Although the import of this restriction has been obscured by time, the nineteenth-century Mormons understood what had happened. Parley P. Pratt stated:

The Anti-Mormons were determined the Mormons should yield and abandon the country. Moreover the *land sales* were approaching, and it was expedient that they should be driven out before they could establish their *rights of pre-emption*. In this way their valuable improvements—

96. At the conclusion of the preliminary hearing, twenty-nine people were released outright. Twenty-four of the remaining were bound over for trial. All but ten of these individuals were released on bail, leaving Smith and other Church leaders as the sole remaining prisoners. Madsen, “Joseph Smith and the Missouri Court of Inquiry,” 98.

97. Mormons used this phrase to describe the sieges to their cities, particularly Far West. This phrase appeared as commentary in some of the deeds Mormons were forced to execute in conveying their lands to the Missourians. For example, in a warranty deed dated November 15, 1838, with eight grantors—Austin Hammer, Samuel Zimmer, James Huntsman, Issac Ellis, John Pye, John York, David Norton, and Elias Benner—to Willis G. Casper as grantee contains the following language in the text of the deed: “All being Latterday Saints now living in Caldwell County in Missouri and being fenced in by the Gentiles commanded by John B. Clark who is murdering our People and so we are going to leave the County & State, we do for the good of the poor.” Copy of this deed in Church History Library. Interestingly, three of the grantors, Austin Hammer, John York, and Elias Benner, had been killed sixteen days earlier at the Hawn’s Mill Massacre. There was no signatory line for Elias Benner, while Austin Hammer’s and John York’s signatures were made by an “X.” Signing with an “X” is a legally recognized signature for people who are illiterate. Neither Hammer nor York were illiterate, as they had filed applications for their land at the Lexington Land Office on November 26, 1836, and had signed their names on these applications. See Austin Hammer and John York, Preemption Applications, Church History Library.

the fruit of diligence and enterprise—would pass into the hands of men who would have the pleasure of enjoying without the toil of earning.⁹⁸

Joseph Smith, Sidney Rigdon, and Elias Higbee also articulated this fact in their report to the United States Senate and House of Representatives on January 27, 1840. They acknowledged the persecution against the Saints, first in Jackson and then in Clay, Caldwell, and Daviess counties, was rooted in that

they were a body of people, distinct from their fellow citizens, in religious opinions, in their habits, and in their associations; and withal sufficiently numerous to make their political and moral power a matter of anxiety and dread to the political and religious parties by which they were surrounded, which prejudices arose not from what the Mormons had done; but from the fear of what they might do, if they should see proper to exercise this power.

They continued:

In addition to this, the Mormons had either purchased of the settlers or the General Government, or held by Pre-emption rights, what were regarded the best lands in that region of the Country. The tide of speculation during this period of time ran high; and the cupidity of many was thus unlawfully aroused to possess themselves of these lands, and add to their wealth by driving the Mormons from the country, and taking forcible possession of them; or constraining them to sell through fear and coercion at prices merely nominal and of their own fixing.⁹⁹

Even those outside the Mormon community acknowledged this motive. In an article published in the *New Yorker* dated October 13, 1838, the editor succinctly wrote:

The latest accounts from the Mormon neighborhood in Missouri directly assert that all the trouble is occasioned by the “world’s people”

98. Parley P. Pratt, *Late Persecution of the Church of Jesus Christ, of Latter Day Saints* (New York: J. W. Harrison, 1840), 149; italics in original. “If the Saints who fled DeWitt hoped they would escape their tormentors, they hoped in vain. Sashiel Woods urged the troops who had surrounded the town to hurry to Daviess County, because the pre-empted lands would soon go on sale and must be secured by Missourians.” Marvin S. Hill, *Quest for Refuge: The Mormon Flight from American Pluralism* (Salt Lake City: Signature Books, 1989), 89.

99. Memorial, Joseph Smith, Sidney Rigdon, and Elias Higbee, 8–9. The memorial further notes, “And let it be here observed, in passing, that Judge Adam Black had before that time sold the improvement and pre-emption claim on which he then resided [in Daviess County] to the Mormons; had received his pay for the same; that through his instrumentality the Mormons were broken up and driven off; and that he now unlawfully retains both their money and the improvements.” Memorial, Joseph Smith, Sidney Rigdon, and Elias Higbee, 13.

about them, who covet the fine lands on which they have settled, or wish to frighten or drive them from the country before they have taken up any more in the fertile country surrounding their settlement. Of course, this interferes with the trade of the Preemptioners, who are determined to eject them, either by their own force, or by stirring up the State against them.¹⁰⁰

William Aldrich, a Mormon resident in Daviess County, noted in his redress petition that he “was als[o] deprived of the privelege of Proveing if my Preemption being under the spetial order of General Clark which prohibited [them] from leaving Farwest in Caldwell Co.”¹⁰¹ Likewise, Joseph Younger, another Mormon resident in Daviess County, claimed loss for his “perremtions Rights five hundred dollars Being cept under gard whil the Land sales at Lexinton was going on.”¹⁰² Jabis Durfee similarly explained that he had gained a preemption right in Daviess County upon which he had built a house and mill: “I resided on said tract of land untill October AD. 1838 which—entitled me to a Preemtion right on said land: according to the laws of the United States: Whereas I was prevented from proving up said right and entering said tract of land in consequence of an order from Governor Boggs authorising an armed force to drive me with others from the State.”¹⁰³

100. The article continues: “The Columbia [Missouri] Patriot distinctly asserts that such are the true causes of all the trouble. A committee of the citizens of Chariton county have been among the Mormons, to investigate the truth of the accusations against them, and they declare them wholly unfounded. Jo. Smith and Rigdon have given bonds of \$1,000 each to keep the peace. They have further sworn to the following certificate: ‘We hereby certify that we have learned that a Mr. Nathan Marsh has certified that the people some time called Mormons have ingratiated themselves with the Indians, for the purpose of getting the Indians to commit depredations upon the people of this State, which certificate of Marsh (as represented to us) is utterly false. We have never had any communication with the Indians on any subject; and we, and all the Mormon Church, as we believe, entertain the same feelings and fears towards the Indians that are entertained by other citizens of this State. We are friendly to the Constitution and laws of this State and of the United States, and wish to see them enforced. Joseph Smith, Jr./Sidney Rigdon.’” “The Mormons,” *New Yorker* 6 (October 13, 1838): 59.

101. Johnson, *Mormon Redress Petitions*, 414.

102. Johnson, *Mormon Redress Petitions*, 386–87.

103. Johnson, *Mormon Redress Petitions*, 442. Dated January 18, 1840, Jabis Durfee’s redress petition notes, in part, “I moved into Davies County State of Missouri in December in the year of 1837 and settled on the North West Quarter of Section No eighteen in Township fifty eight North and Range—twenty Seven West. I improved said Quarter by cultivating a portion of the soil and building a house in which I lived also a mill. I resided on said tract of land untill [sic] October AD. 1838 which—entitled me to a Preemtion right on said land: according to the laws of the United States: Whereas I was prevented from proving up said right

His brother, Perry Durfee, echoed this complaint that he was taken prisoner and “was prohibited from entering my preemption which I held in Davis Co.”¹⁰⁴ Perhaps Willard Richards articulated it best, declaring the entire hearing at Richmond as nothing more than “a lie out of whole cloth.”¹⁰⁵

Once the time for the holders of preemption rights to exercise them had elapsed, the key actors in the preceding months’ anti-Mormon activities immediately purchased nearly eighteen thousand acres of Daviess County land.¹⁰⁶ Based on estimates as to the number of Mormon families then living in Daviess County, it appears most of that land purchased previously had been settled and improved by Latter-day Saint occupants.¹⁰⁷ These were strategic purchases. For example, Adam-ondi-Ahman and many other tracts in the vicinity were purchased by Sashel Woods, his sons-in-law Jon Cravens and Thomas Calloway, and Woods’s fellow Cumberland Presbyterian minister, George Houx.¹⁰⁸ Within two months the town’s name was changed to Cravensville.¹⁰⁹ Other tracts also were strategically chosen. The Original Entry Map for Daviess County substantiates these Missourians’ strategy to take the most valuable improved Mormon lands. For example, Cravens and Woods purchased Jabis Durfee’s claim

and entering said tract of land in consequence of an order from Governor Boggs authorising an armed force to drive me with others from the State.” Johnson, *Mormon Redress Petitions*, 442. From this description, Durfee’s property can be found on the Original Entry Map for Daviess County, Missouri, Church History Library. As the foregoing maps document, Sashel Woods and Jon Cravens purchased Durfee’s property on November 23, 1838. This undoubtedly was a strategic purchase, as no other property surrounding Durfee’s was bought at that time. The reason for selecting this property by Woods and Cravens is obvious—the mill.

104. Johnson, *Mormon Redress Petitions*, 443.

105. Rough Draft, Manuscript History of the Church, 1838–39 draft history, 30, MS, Church History Library.

106. A review of the “Original Entries for Lands in Daviess County” shows that between November 21 and December 31, 1838, thousands of acres were bought. Mormons did not purchase a single acre. See “Original Entries for Lands in Daviess County.”

107. On September 18, 1838, General Atchison wrote to Governor Boggs that from “the best information I can get there are about two hundred and fifty Mormon families in Daviess County, nearly one half of the population.” *Document Containing the Correspondence, Orders, &c*, 27. With entries averaging between forty and eighty acres for each family, this would have amounted to between ten and twenty thousand acres of Mormon landholdings in Daviess County.

108. See “Original Entries for Lands in Daviess County.” This document shows these men obtained the patent rights for most of Adam-ondi-Ahman on November 28, 1838, and the rest on December 18, 1838.

109. Cravensville, Missouri, Plat Records, Church History Library.

along with his home and a mill for \$1.25 per acre on November 23, 1838, the first day following the lapse of Durfee's preemption rights¹¹⁰ (figs. 10 and 11). Interestingly, Cravens and Woods purchased no property adjacent to the Durfee site. The two men surgically purchased a mill site—the most valuable of all property in the frontier. This mill site was so ideal that it continued as such for more than fifty years¹¹¹ (fig. 12). Cravens ultimately sold half (forty acres) of Durfee's property (eighty acres), which he purchased for \$100, to McClain Wilson in 1866 for \$1,225,¹¹² thereby reaping a very substantial profit (fig. 13).

Cravens and Woods were not alone. Other prominent figures in the Mormon War acquired significant property holdings in Daviess County, including Wiley C. Williams (aide to Governor Boggs), Amos Rees,¹¹³ William Mann, William O. Jennings, Jacob Rogers,¹¹⁴ and others. Most of these individuals had not been residents of Daviess County prior to the land sales, indicating they were speculators who profited from Mormons' misfortune.¹¹⁵

The Daily Missouri Republican, published in St. Louis, aptly summarized the effect of the Mormon conflict in its December 13, 1838, editorial:

110. Johnson, *Mormon Redress Petitions*, 442. See note 103.

111. The following are copies of the *Illustrated Historical Atlas of Daviess County Missouri* (Philadelphia, Pa: Edward Brother, 1876), 35 (copy in author's possession). This document shows the existence of the mill that Durfee originally built in 1837.

112. John and Ruhama Cravens, Warranty Deed to McClain Wilson, December 7, 1866, Church History Library.

113. For example, Wiley Williams and Amos Rees penned the following letter to General John Clark dated October 25, 1838, stating, in part: "We use on our way as expresus the Governor conveying the following information—that these wretched fanatics have thrown off all restraint and are destroying all before them—they have burned Galatin the County Seat of Daviess taken the goods from J. Stallings Store and burned the house they have burned the Villeage of Millport in Daviess and have burned almost every house from Galatin and Millport North with many others in other parts of the County and plundered the whole Country. . . . They have determined to attack and burn Richmond to night And we have but little doubt but that they will attempt it. . . . These creatures will never Stop until they are stoped by the Strong hand of force. And Something must be done and that Speedily There is no kind of doubt but that all the Alarm with much more that I have not time to write is true and you may act accordingly." Missouri State Archives. Mormon War Papers, 1837–1841, located at http://www.sos.mo.gov/archives/resources/findingaids/fulltext/rg005_01-Bo1_F48-52.asp?rid=f48_f01-02.

114. William Mann, William O. Jennings, and Jacob Rogers participated in the Hawn's Mill Massacre on October 30, 1838. Baugh, "A Call to Arms," 417, 418, 420.

115. See "Original Entries for Lands in Daviess County."

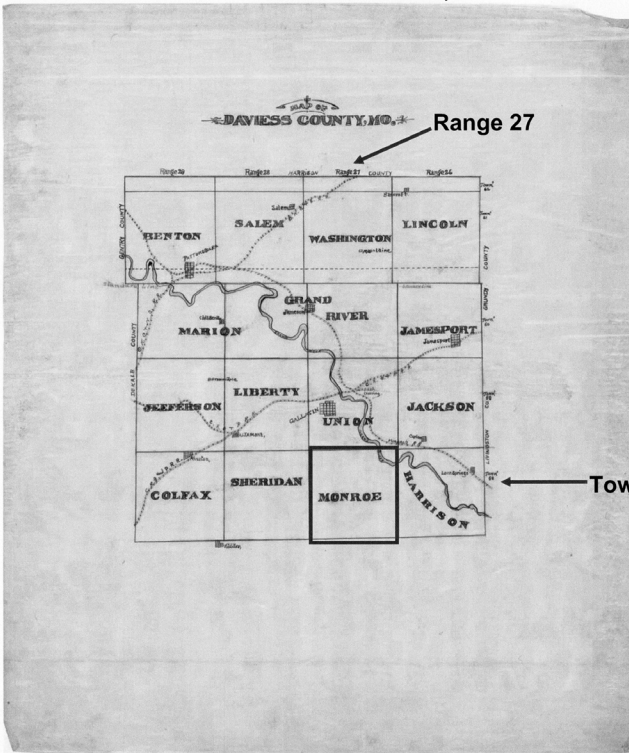


FIG. 10 (left). Original entry Map of Daviess County, Missouri, showing all the townships in that county. Property owned by Latter-day Saint Jabis Durfee was located at Township 58 North Range 27 West (Monroe). Durfee built a home and mill on this site. Courtesy Church History Library.

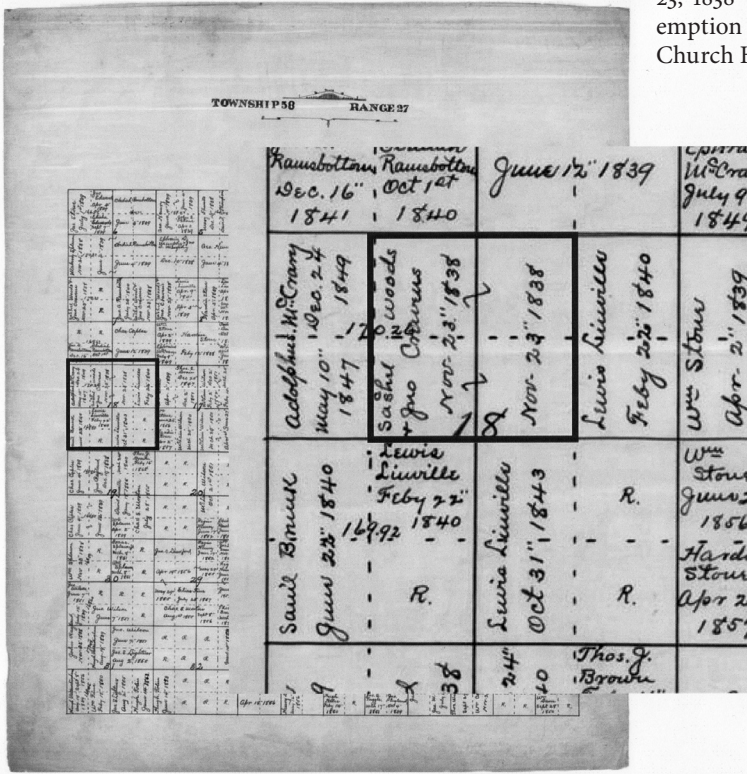


FIG. 11 (below). Map showing Township 58 North Range 27 West and a close-up on Section 18, where Jabis Durfee's property had been. Reverend Sashel Woods and his son-in-law John Cravens purchased Durfee's property on November 23, 1838—the day after the pre-emption rights lapsed. Courtesy Church History Library.

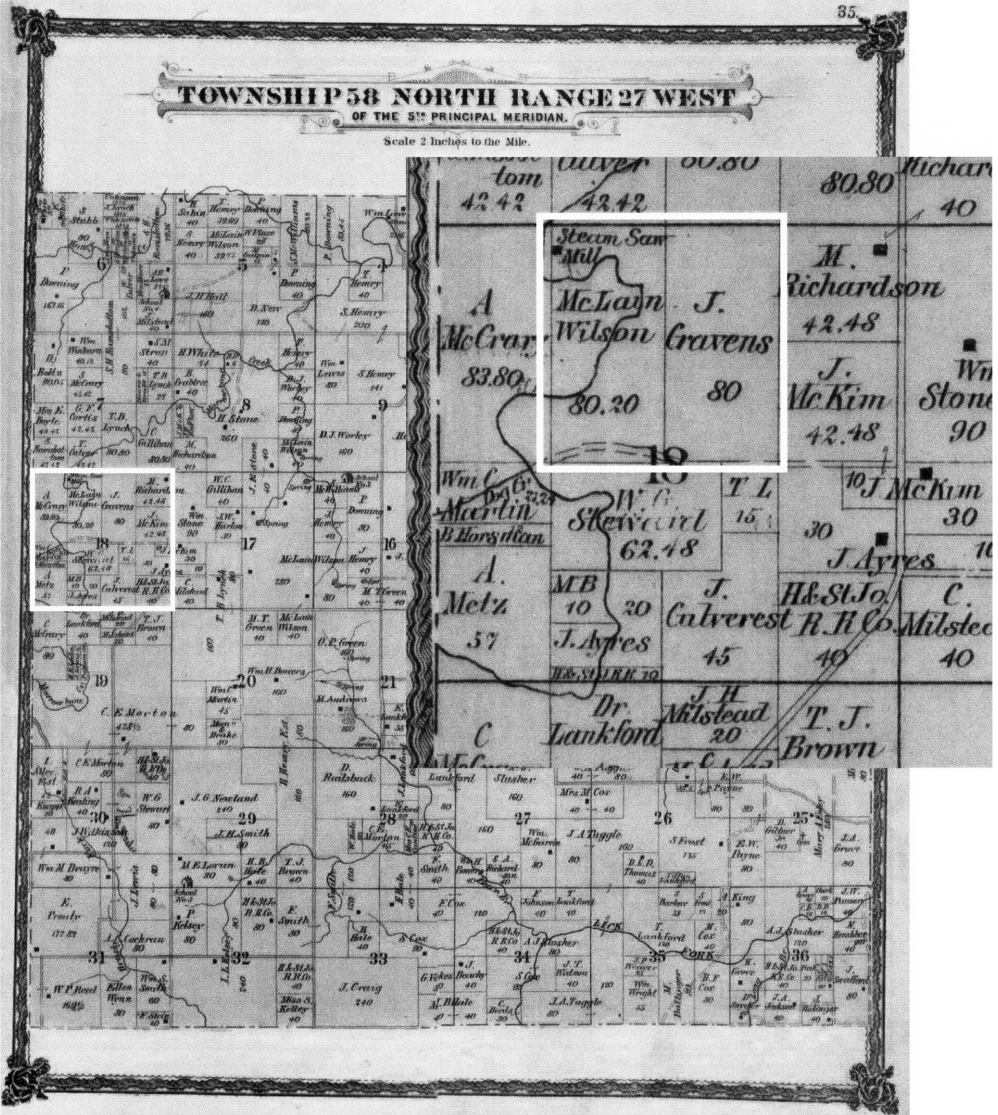


FIG. 12. 1876 map of Daviess County, Missouri, featuring Township 58 North Range 27 West and a close-up of Section 18, showing Jabis Durfey's land that Sashel Woods and John Cravens bought in 1838. The mill Durfey had built on the land was shown as still in existence fifty years later. Courtesy Church History Library.

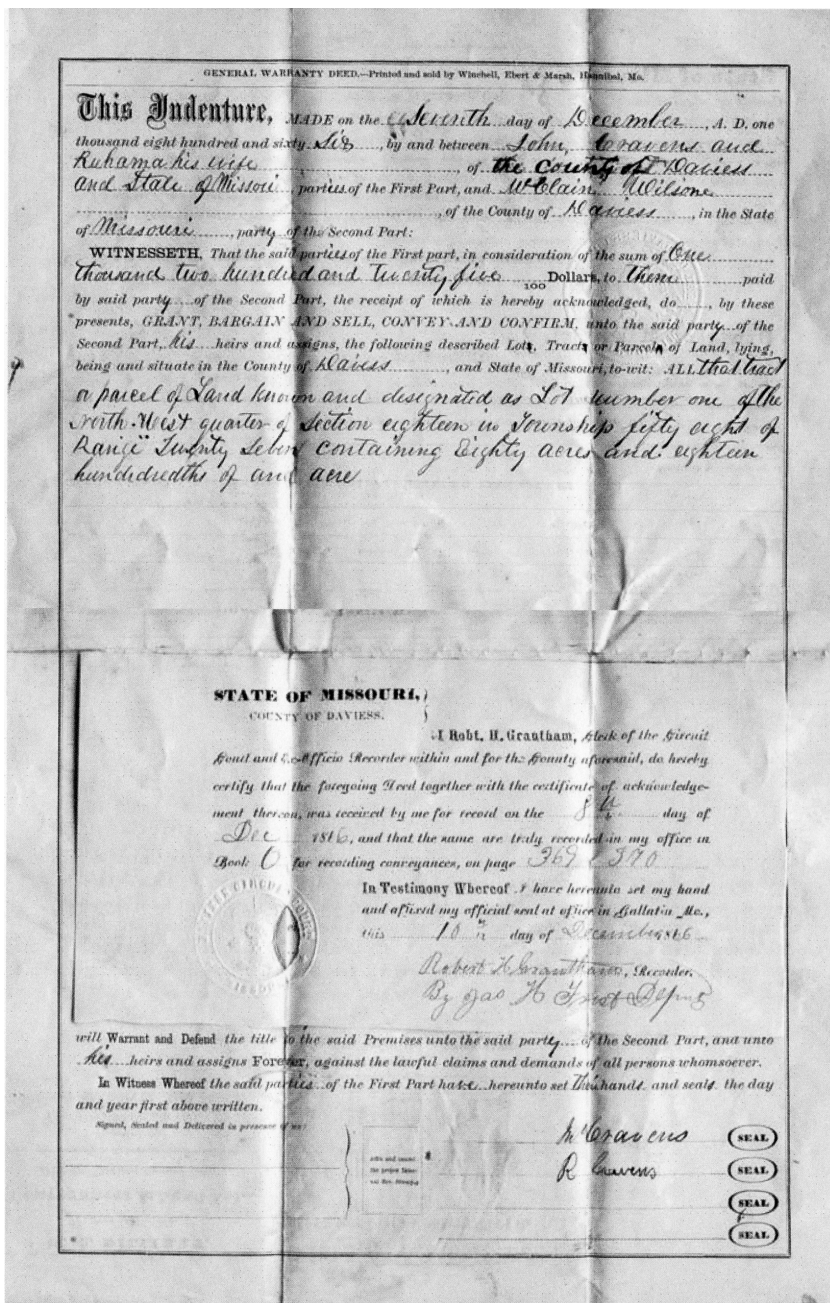


FIG. 13. This general warranty deed, between John and Ruhama Cravens (grantors) to McClain Wilson (grantee) dated December 7, 1866, shows that half of Jabis Durfey's property, which Sashel Woods and John Cravens bought in 1838 for \$100, was sold to Wilson three decades later for \$1,225. Courtesy Church History Library.

We have many reports here in relation to the conduct of some of the citizens of Daviess and other counties, at the recent Land Sales at Lexington—It is reported, said to be on the authority of a gentleman direct from Lexington, that at the recent land sales the lands of Caldwell and Daviess were brought into market, and that some of the citizens who have been the most active in the excitement against the Mormons, purchased a number of the Mormon tracts of land. Where the Mormons had made settlements and improvements, it is said, these citizens have purchased them for speculation. It is said, that the town of “Adamon Diamond,” a Mormon town in Daviess, in which there are several houses,—a very valuable site for a town—was purchased at these sales for a dollar and a quarter an acre. It is further said, that there is a company formed, embracing a number of persons, for the purpose of speculating in the lands of these people.¹¹⁶

While the causes of the Mormon conflict in 1838 may be multifaceted, the result was not. Some Missourians enjoyed a financial windfall by getting clear title to the Mormons’ lands in Daviess County. Whether this was the primary motive from the outset is still unclear, it is an undisputable fact that key Missourians involved in the Mormon expulsion immediately seized a financial reward.

Conclusion

The nineteenth-century Mormons knew what had happened—and so did these Missourians who reaped the benefits. The Mormon tragedy in Missouri ended with a slow, painful walk to the Mississippi River, where the people crossed to Illinois to start rebuilding their lives. The optimism of Zion planted in Jackson County and the efforts to build refuge

116. The editorial continued: “I should not have felt authorised to allude to these reports, for I know nothing of the source from whence they come, but for the fact, that the same matter was incidentally alluded to yesterday in the Senate. Many other things are said in connection with these sales, but for the present I do not feel authorised to give them. This matter should receive the attention of the committee on this subject, for it may lead to a better understanding of the causes of these disturbances. I look upon it as a matter of the greatest importance, how the committee on this subject may conduct this inquiry. The character of the State and the reputation of every citizen is involved in it, and it is due to all that a full investigation and impartial report should be made.” Letter to the Editor, *Daily Missouri Republican*, December 13, 1838, 2.

communities in Caldwell and Daviess counties were transferred to the founding of the “City of Joseph.”

Yet Mormons did not forget the sorrows of Missouri. While popular history has painted the persecution as religiously motivated, the facts suggest a more base reason: greed, in its most ugly and insatiable form, to “have the pleasure of enjoying without the toil of earning.”¹¹⁷ Such efforts stain some of the earliest land records of northern Missouri. The façade of legitimacy was nothing more than “a lie out of whole cloth.”¹¹⁸ Nearly two years after their forced departure, Mormons petitioned the federal government for redress and put the reality of their losses into perspective:

The Mormons, numbering fifteen thousand souls, have been driven from their homes in Missouri; property to the amount of two millions of dollars has been taken from them or destroyed; some of their brethren have been murdered, some wounded, and others beaten with stripes; the chastity of their wives and daughters inhumanly violated; all driven forth as wanderers; and many, very many, broken-hearted and penniless. The loss of property they do not so much deplore, as the mental and bodily sufferings to which they have been subjected; and, thus far, without redress. They are human beings, possessed of human feelings and human sympathies. Their agony of soul for their suffering women and children was the bitterest drop in the cup of their sorrows.¹¹⁹

Examining the orchestrated loss of Mormon land as recorded on Daviess County abstracts is academically important, but it cannot provide an adequate understanding to the totality of these tragic events.

117. Pratt, *Late Persecution of the Church of Jesus Christ*, 149.

118. Rough Draft, Manuscript History of the Church, 30.

119. “Petition of the Latter-day Saints, commonly known as Mormons,” 12–13.

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Appendix A

An Act to Grant Pre-Emption Rights to Settlers on the Public Lands (May 29, 1830)

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year one thousand eight hundred and twenty-nine, shall be, and he is hereby, authorized to enter, with the register of the land office, for the district in which such lands may lie, by legal subdivisions, any number of acres, not more than one hundred and sixty or a quarter section, to include his improvement, upon paying to the United States the then minimum price of said land: *Provided, however,* That no entry or sale of any land shall be made, under the provisions of this act, which shall have been reserved for the use of the United States, or either of the several states, in which any of the public lands may be situated.

SEC. 2. *And be it further enacted,* That if two or more persons be settled upon the same quarter section, the same may be divided between the two first actual settlers, if, by a north and south, or east and west line, the settlement or improvement of each can be included in a half quarter section; and in such case the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference.

SEC. 3. *And be it further enacted,* That prior to any entries being made under the privileges given by this act, proof of settlement or improvement shall be made to the satisfaction of the register and receiver of the land district in which such lands may lie, agreeably to the rules to be prescribed by the commissioner of the general land office for that purpose, which register and receiver shall each be entitled to receive fifty cents for his services therein. And that all assignments and transfers of the right of pre-emption given by this act, prior to the issuance of patents, shall be null and void.

SEC. 4. *And be it further enacted,* That this act shall not delay the sale of any of the public lands of the United States, beyond the time which has been, or may be, appointed, for that purpose, by the President's proclamation; nor shall any of the provisions of this act be available to any person, or persons, who shall fail to make the proof and payment required before the day appointed for the commencement of the sale of lands including the tract, or tracts, on which the right of pre-emption is claimed; nor shall the right of pre-emption, contemplated by this act, extend to any land,

which is reserved from sale by act of Congress, or by order of the President, or which may have been appropriated, for any purpose whatsoever.

SEC. 5. *And be it further enacted*, That this act shall be and remain in force, for one year from and after its passage.

21st Cong., 1st sess., ch. 208, *Stats at Large of USA*, 4:420–21.

Appendix B

Example of a Postponement by the General Land Office

NOTICE

Land Office at Palestine,
September, 1834

Agreeably to instructions from the Commissioner of the General Land Office, notice is hereby given that the sale of lands in fractional townships 17, 18, 19, and 20, of range 10 west, of 2d P. M., advertised to take place at this office on the fourth Monday in November next, by proclamation, dated 7th of July last, is postponed. All persons having pre-emption claims to said lands are required to establish the same to the satisfaction of the register and receiver at Danville

General Public Acts, Circular no. 536, GLO (September 1, 1834).

Appendix C

Mormon Redress Petitions Mentioning Preemption Rights

The petitions involving property losses in Daviess County contain numerous references to the loss of preemption rights for cultivated properties. The following is a summary of those petitions that specifically mention this loss, as compiled in Clark V. Johnson, ed., *Mormon Redress Petitions: Documents of the 1833–1838 Missouri Conflict* (Provo, Utah: BYU Religious Studies Center, 1992). The spelling, punctuation, and grammar are retained from originals.

1. Crandell, Benjamin: “Loss in Davisse Ct. Mo. in 1838 & 1839—to One qr. sect. and intitled to a preemption wright \$800.00.” p. 173.
2. Duncan, Homer: “for preemption write \$500.00.” p. 192.
3. Lemmon, James: “To a Preemption wright with a right of Claim to a [illegible] on One qr. Sect at \$ [illegible].” p. 270.
4. Lemmon, John: “Davisse County in 1838 and 1839 To improvement imbraceing two (qr. Sect.) One in markit the other not and was intitaled to a preemptive wright, but was prevented from proving it up, by the mob imbodying themselves for that and other like purposes.” p. 271.
5. Sloan, James: “I believe a Person of the Name of Tarwater is now living upon a Preemption right, which was purchased from him in Davis County, and paid for with my Property.” p. 341.
6. Smith, John: “one premtion rite on 160 acre \$300.00.” p. 345.
7. Smith, Samuel: “I Samuel Smith made an improvement and obtained a preemption right upon 160 acres of land in Davis County Mo in 1837 on the first of Nov 1838 I was compelled to leave the county by order of general Wilson.” p. 351.
8. Stewart, Urban V.: “I was driven by the threats of the Daviess Co Armed force to leave my possessions consisting of a preemption right to a quarter Section of land with 30 Acres under improvement and a good house.” p. 356.
9. Stoker, Michael: “my bill of Damage against State of missouri in 183[8] viz pre emption Right with improve ment \$100.00.” p. 359.
10. Aldrich, William: “I was als deprived of the privelege of Proveing if my Preemption being under the spetial order of General Clark which prohibited us from leaving Farwest in Caldwell Co.” p. 414.
11. Best, Henry: “I moved into the State of Misouri in the Summer of 1837 and made A preemption right and Commenced to build A House in Davis County whare the Mob Came upon me acting under the Exterminating Order of Govonor Boggs and Drove me of by the forse of Arms.” p. 420.

12. Decker, Issac: "Some time in the month of March A.D. Eighteen hundred and thirty Eight, he removed from the State of Ohio, to Davis County in the State of Missouri, with no other intent or purpose than to become a resident Citizen in good faith under the Laws of the Said State of Missouri, And with that intent he purchased a preemption right to Congress Land." pp. 439-40.
13. Durfee, Jabis: "I resided on said tract of land untill October AD. 1838 which—entitled me to a Preemption right on said land: according to the laws of the United States: Whereas I was prevented from proving up said right and entering said tract of land in consequence of an order from Governor Boggs authorising an armed force to drive me with others from the State." p. 442.
14. Durfee, Perry: "I was prohibited from entering my preemption which I held in Davis Co—and was compeld us to leave the state. . . . I moved into Davies County State of Misouri in the month of December in the year 1837 and settled on the South West Quarter of Section No five in Township No fifty eight North and Range No twenty seven West. I improved said Quarter section by cultivating a portion of the soil, and building a house in which I lived. I resided on said tract of land untill October 1838 which residence entitled me to a Pre Emption right on said land according to the law of the United States. Whereas, I was prevented from proving up said Right and entering said tract of land. in consequence of an order from Governor Boggs authorising an Armed force to drive me with others from the State." p. 443.
15. Hoyt, Mary Ann: "In March 1838 she moved to Davis County in said state, and there Bought a Preemption Right on 160 acris of Land, and from thence was driven to Diaman, and there Remained until the Governor of Missouri Raised the Militia under Command of General Wilson and Gave me his Exterminating order, and thereby Robed me of my Property and Preemption Right, which I Consider worth \$300.00." p. 469.
16. Marsh, Eliphaz: "I lived in Davis county Missouri in March 1837 and was entitled to a preemption right for eighty ackers of Land." p. 494.
17. Rogers, Noah: "That he Deponant who in the year 1838 moved into Davis Co Mo, & settled on a pece of Land & Cleard twenty Acres Expecting to have a preemption & Corn growing on said twenty acres & was compeld to leave it & form there to Adam ondiaham." p. 530.
18. Seely, William: "In the Last of March A.D. 1838 he moved with his family to the State of Missouri, and Stopped in Davis County in Said State of Missouri, that in Said County he purchased a pre-Emption right to a tract of Congress Land for which he paid \$200.00." p. 532.
19. Woodland, William: "In the year of 1837 he became a Citizen of Davis Co. Missouri. . . . I was on the place long enough to gain a preemption." p. 557.

20. Young, Phineas H.: "Also three pre-emption rights, to Congress Lands for all of which he paid the Sum of five hundrd and Eighty five dollars." p. 559.

In addition to these statements, many petitioners referenced the receipt that they received when they made their application at the Lexington Land Office as a "duplicate" of government or "Congress" lands as part of the preemption process. The following petitions make reference to lost land, evidenced by the words "duplicate" or "duplication."

1. Allen, Albern: "I gave up the Duplicates and the N. E $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Section 32 Township No. 56 Range 28 North of the base line and west of the 5th princpal Meridean also the NW. $\frac{1}{4}$ of the South E $\frac{1}{4}$ of Section 32 Township 56 Range 29 North of the base line of the 5th principal Meridian Also 80 Acres of which my Duplicate will Show Also 40 Acres I gave up my Duplicate and Cannot asertain the numbers which Land I had to leave after bieng taken prissoner and obliged to assine away My right and Compelled to leave the State by the Exterminating Decree of the Governer." p. 415.
2. Allred, Martin C.: "The Number of Acres of Land Entered and owned By Martin C. Allred was one hundred and Twenty as My Duplicates will show." p. 415.
3. Allred, William: "I then Entered in the County of Ray 353 acres of Congress Land I was then obliege to Leave my Land the Same Season. . . . I was obliege to Leave the State to Save my life & my family for which I was obliege to Sell part of my Land at any price they please to give. three of my Boys being on were Business were taken by the Militia & kept in there possession Some few days the part of my Land that I Sold I was obliege to give up my Duplicates." p. 416.
4. Bozarth, Squire: "When I sold my land which was at a great sacrifice I had to part with a number of my duplicates, for it is a custom in Missouri for people when they buy land of those who enter it to exact of them their duplicates." p. 422.
5. Brady, Lindsey A.: "The number not Known in Consequence of Having to give up my Duplicate when on the highway was shot at by one & Chased by 5 and made my escape afterwards taken prissoner for One week & was Obligated to leave the state by the exterminating orders of the Governer." p. 425.
6. Brown, Alanson: "I then Removed to Daviess Co. and purchased, 80, Acres of Government land of the United States one Duplicate was taken from me by the Mob I there until the fall of 1838 under Continual threatning of my life if I did not leave the place although in the diferent Counties they repeatedly Said they had nothing against me only for my Religion." pp. 425-26.

7. Cole, Barnet: "Removed into the County of Coldwell entered there 40 acres of land in Township 55 Range 28 Section not known in Consequence of which I gave up the Duplicate further Deponent Saith not except that he left the state in Conseeque Boggs exterminating order." p. 432.
8. Herrick, Amos F.: "And this deponent further says that on the 11th day of July 1836, he did in his own name & for his own use, enter forty acres being north east of the northeast qr. of section no. 28. Township no 54 north of the base line & west of the fifth principal meridian, range no 15. as described in the Duplicate. No 11607: & that in the same year he did purchase for his own use also forty acres, adjoining the other forty on the north, partly improved, with two houses on it, & smoke house & hatter shop: & also that he purchased the northwest quarter of section 13 in township 54 north, Range 16 west, & that he had peaceable possession of the two said forties & lived on them three years, & that in november & December 1837 & 1838 being threatened by Mobbers led on by Daniel Davis & Archibald Rutherford." p. 459.
9. Corrill, John: "Your petitioner further testifies that he acted as Agent, and entered some 2000 acres of land lying in Caldwell county for, and took Duplicates in the names of Joseph Smith Jun, Hirum Smith & Oliver Cowdery, and that the Duplicates for said land were deposited in the office of the Clerk of the county court of Caldwell." p. 434.
10. Daley, John: "In the year 1837 he entered 800 Acres Land at the Land office Lexington as will be Seen by Certain Duplicates in part accompanying this affidavit." p. 438.
11. Foot, Reuben: "And that this deponent was in actual and peaceable possession of the lands before discribed, and had in his possession Duplicates of said Entries from the aforesaid Land Office—And That he was by force and arms Compelled to give up said Duplicates to the Citizens of Mosourie. and that without his own free will—was exterminatd from the State of Mosourie." p. 450.
12. Grover, Thomas: "One hundred and twenty acres of the above I purchased from Government, the remainder from individuals most of the lands were under improvement with good buildings &c &c In the begining of November AD 1838 . . . The mob obliged me to give up my duplicates which I held for the lands which I had purchased from Government." p. 455.
13. Loveless, John: "In 1836 I mooved To Caldwell and enterd land and Settled on it 80 Acres of which my duplicate will Show I was Taken Prisner on my way To far West by the militia In the month of October or November." p. 491.
14. Martin, Moses: "He bought forty acres of congress land and received a duplicate for a deed that he built a house and made improvements on the land. that in the month of Oct 1838." pp. 494–95.

15. Murdock, John: "I entered forty acres of land the Duplicate of which I cause to accompany this as proof of the Same the in August or Sep following I entered another forty in the Same office the No of which I have forgotten & the Duplicate was unlawfully arrested from me & being forced from the State have not had the opportunity of Getting the [con]tent out of the Office." pp. 502-3.
16. Patten, Charles W.: "I was compelled to give up my duplicates for the land I had bought with my money which Duplicates call for south east quarter of the south west qr. of township 56 also the N W qr. of the N W qr. Sect, 6 twnship 55 & range 29." p. 516.
17. Reed, Elijah: "In Oct or Nov 1837 I Entered two Forties of land in Said County at the Lexington office & in the Sumer of 1838 . . . I accordingly removed to this place in March the Duplicates of my land I have lost or misplacd So that I cannot Find them." pp. 523-24.
18. Thompson, Lewis: "A Citizen and in peaceable possession of the SW——SW——of Section No. 17. Township No. 56. Range No. 27. And was Compelled to leave the Same by Govenors Boggs Exterminat[in]g Orde[rs] executed by General Clark & others as will be Seen by the Duplicate to the above land refered to." p. 548.
19. Turner, William: "The enclosed duplicates will Show as to Turner's enteries at the Land Office at Lexington." p. 549.
20. Whiting, Elisha: "I had preveiously purchased an 80 of goverment land in the county of Caldwell for which I had paid my money. . . . We being insufficient to meet so large a band of ruffians, were obliged to submit: and for a trifling Sum to Sign away our duplicates." p. 552.
21. Wilson, Lewis D.: "I hereby certify that I purchased from Congress Two hundred and forty acres of land lying in Caldwell County and State of Missouri and Was compelled to leave the same on a c count of the order of the executive of the State. . . . I had consequently to part with the duplicates I had for the same." p. 554.
22. Carter, Simeon: "I Certify I had at that time one hundred & Sixty two acres of Land, the Same which I held the Certificates for. I further Certify that I was oblged to give up my Duplicates." p. 157.
23. Foot, Timothy B.: "In May 1837 I then and there Entered at the Lexington land Office Eighty acres in Section 32 Township 56 Range 28 and about one hundred and eleven acres in Section 5 Township 55 Range 28 on which I resided un[till] about the first of Nov. 1838. . . . I had to give a warrantee deed and deliver the Duplicates that I recievd at the Land office." p. 204.