

Introduction to John D. Lee Trial Transcripts

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Two reporters, Adam S. Patterson and Josiah Rogerson, recorded the proceedings of the John D. Lee trials in Pitman shorthand.¹ Rogerson and Patterson each recorded the first Lee trial, from jury selection to closing arguments. Patterson made a like record of the second Lee trial. The only extant Rogerson shorthand for the second Lee trial is a single legal plea.² As independent records of the actual court proceedings, the original Rogerson and Patterson shorthand reports of the first trial largely corroborate and complete each other. And when all their notes are combined, they provide by far the most complete and most accurate record of the John D. Lee trials available.

Three contemporary transcripts were made from these shorthand records: the Rogerson transcript, the Boreman transcript, and a partial transcript, probably by Patterson, of the second trial.³ On the surface, the history of the creation of the transcripts—as given by transcribers Josiah Rogerson and Waddington Cook, whom Judge Jacob S. Boreman hired to transcribe Patterson’s shorthand—seems straightforward: (1) Patterson transcribed only the testimony portion of the second trial for Lee’s appeal in early 1877.⁴ (2) Rogerson began to transcribe his own shorthand into the Rogerson

transcript in 1883.⁵ (3) Judge Boreman, who presided over both Lee trials, desired to publish the trial transcripts for profit. He hired Patterson's former student, Cook, to transcribe Patterson's shorthand notes; the result became known as the Boreman transcript.⁶ Careful analysis of the original shorthand and resulting transcripts reveals a far more complex story.

The Shorthand Records and Initial Transcripts

Neither Patterson nor Rogerson recorded every word uttered in the courtroom. While there is substantial overlap, each man recorded some part of the courtroom proceedings that the other missed. In Annie Hoge's testimony about Indians, for example, each reporter caught essential, but different, parts of what she said.⁷

Adam Patterson's Shorthand (PS)

Adam Patterson, official court reporter for both Lee trials, recorded the first John D. Lee trial in fourteen notebooks, eight of which are extant.⁸ He recorded the second Lee trial in six notebooks, the last five of which are extant.⁹ Patterson had some difficulty writing fast enough to keep up with court proceedings and therefore missed phrases, usually leaving a space to indicate the omission.¹⁰ His shorthand was not precisely written and is often difficult to transcribe. He made few additions to his own shorthand manuscript; exceptions are a few additions of *q* and *a* to designate questions and answers, as well as an occasional phrase written above the line. Rogerson later made extensive additions to

Patterson's shorthand, however, especially from the first trial: he added numerous *q*'s and *a*'s; punctuation; and slash marks (/) to divide phrases.¹¹ Rogerson wrote longhand transcriptions (some of which were incorrect) above many of Patterson's shorthand markings, and he may have added some brief shorthand phrases.¹²

Transcripts by Adam Patterson

Adam Patterson intended to transcribe and publish his shorthand notes for the first trial immediately after the trial closed. The *Deseret News* wryly reported that he solicited "aid from the loyal citizens of Southern Utah" to insure publication, so that he and others could make "money directly by the sale of the book" and make additional "money indirectly by using the book to create political capital." A committee was formed to proceed with the publication plans; yet apparently nothing came to fruition.¹³ There is no evidence that Patterson actually transcribed or published any of his shorthand notes from that trial.¹⁴

By direction of the court, when John D. Lee appealed his conviction, Patterson transcribed the testimony portion of the second trial.¹⁵ Patterson's original transcript is not extant; however, it presumably is the source for the partial transcript of the second trial published by Lee's attorney, William W. Bishop, in the 1877 *Mormonism Unveiled*.¹⁶ Bishop prepared Lee's appeal, and would have had access to this transcript. Patterson died in San Francisco on August 22, 1886, without making any other transcripts of his shorthand record of the Lee trials.¹⁷

Mormonism Unveiled: Partial Transcript of Lee's Second Trial (MU)

William W. Bishop, Lee's attorney in both trials, published a partial transcript of the second trial in Lee's autobiography, *Mormonism Unveiled*, in 1877. This transcript closely follows Patterson's shorthand; it apparently was taken from the transcript of the second trial that the court ordered Patterson to make for its use in Lee's appeal.¹⁸ However, the partial transcript in *Mormonism Unveiled* omits portions of some witnesses' testimony, most legal arguments, and all opening and closing arguments, including Bishop's statement that the defense would bring no witnesses. It also omits testimony that was unfavorable to Lee, including all of James Haslam's testimony and part of Nephi Johnson's.¹⁹ Some passages were altered by adding material or commentary not found in the shorthand. For example:

Patterson Shorthand

Mormonism Unveiled

[No related text in shorthand]	The cross-examination was continued at great length, but the witness [Nephi Johnson] could not, or would not recollect anything except what he had been advised by his priestly rulers to swear to. Nephi Johnson is a fair sample of the willing tools who commit crimes for <i>Christ's sake</i> , and swear falsely for their <i>own sake</i> . ²⁰
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[No related text in shorthand]	BISHOP—We object to the question [regarding Lee’s current attitude towards Mormonism]; it is not expected that a man shall be called a criminal for giving up his belief in such a Church. ²¹
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Boreman Transcript (BT)

Shortly after Adam Patterson died, Judge Jacob S. Boreman, who hoped to publish the proceedings of both trials for profit, hired Patterson’s only student, Waddington L. Cook, to transcribe Patterson’s shorthand. Josiah Rogerson assisted Cook in this transcription. These facts are well established through surviving correspondence and through the documents themselves. Cook and Rogerson, however, left different and at times conflicting accounts of the process of creating the Boreman transcript.

Cook recorded accounts of his work on the Boreman transcript in correspondence with historian Juanita Brooks and in an affidavit he made when he donated his carbon copy of the transcript to the Library of Congress.²² According to Cook, he moved to Beaver, Utah, in 1886 and became official court stenographer for Judge Boreman.²³ He wrote to Brooks: “It was Judge Boreman who ordered me to make a complete transcript of the two trials of John D. Lee. There had been no complete transcript of these trials only as I did it. The Judge said he wanted to write a book on the said trials and that if I would make the transcript he

would give me a third of the profits of the book he would write.”²⁴ Cook described his work: “I transcribed the whole of the two trials of John D. Lee, which consisted of about 1200 pages of typewriting. . . . I made an official transcript of the shorthand notes of Mr. Adam Patterson who was the official reporter of the Lee trials.”²⁵ Cook never acknowledged Rogerson’s assistance or admitted that much of the Boreman transcript was actually taken from Rogerson’s shorthand rather than Patterson’s.

Josiah Rogerson recorded his account of the creation of the Boreman transcript in a letter to the First Presidency of The Church of Jesus Christ of Latter-day Saints. Rogerson agreed that Judge Boreman hired Cook to transcribe Patterson’s shorthand, intending to publish the transcript. Cook began transcribing the “Addresses, and Speeches, on the part of the prosecution and defense.” Cook worked on the transcript in his spare time for a year in the Beaver courthouse, and then asked Rogerson if he would “assist him, in the completion of the Transcript” and bring his own shorthand notes, which Rogerson “could more readily decipher, than Pattersons.” Rogerson “assisted him, in this manner, several nights in a week during several months of the winter, of 1885.”²⁶ Their work apparently halted for a time but recommenced in 1888 in Salt Lake City, when they transcribed the closing argument of prosecutor Robert N. Baskin from Lee’s first trial. Cook paid Rogerson “a nominal sum per hour for my services, as he could reasonably afford, realizing that it was only a venture at that time.”²⁷

Differing patterns of typographical errors in the Rogerson and Boreman transcripts support Cook’s assertion that he typed the latter. A review of patterns of typographical errors shows Cook also typed Robert N. Baskin’s closing argument in Lee’s first trial.²⁸ The Boreman transcript and the transcription of Baskin’s closing argument contain a greater

number of typographical errors, crossouts, and typeovers than do transcripts typed by Rogerson.²⁹ Cook's handwritten corrections in the Boreman transcript, sometimes changing an accurate transcription to an inaccurate one, show his involvement in proofreading and correcting the document. Some of his edits changed a transcription based on Rogerson's shorthand to match Patterson's shorthand. Other changes are at variance with any of the shorthand records. For example, during the first trial both shorthand accounts record that William W. Bishop asked about the Indians firing upon the emigrants in the days before the massacre. Cook altered the text of the transcript in longhand to read that the Indians had been "**fired firing upon by** the emigrants."³⁰

The Patterson and Rogerson shorthand notes and the Boreman transcript itself support Rogerson's account of his involvement and the use of his shorthand notes in the transcription process. Internal evidence suggests that Cook typed the transcript for the first Lee trial, at least in part, from Rogerson's shorthand and transcript.³¹ In fact, the Boreman transcript for the first trial is largely based on Rogerson's shorthand, with phrases added from Patterson's shorthand. Rogerson's longhand writing appears extensively on Patterson's shorthand notes for both trials, transcribing words above the shorthand, in what was probably a preliminary transcription intended to help Cook.³²

In some places it appears that Cook began typing the Boreman transcript from the Rogerson transcript and then corrected it from Patterson's shorthand. Many sections of the Boreman transcript of the first trial are amalgamations of Rogerson and Patterson shorthand. Rogerson wrote at the close of his own shorthand notebook 4, "**Transcribed Mar 1/88,**" and added, in shorthand, "for Cook."³³ Rogerson's hand symbol, which he used to mark his place while transcribing, appears numerous times on the Patterson shorthand

from both trials. It often appears in exactly the same place in Rogerson's and Patterson's shorthand notes for the first trial, showing simultaneous use of both shorthands.³⁴ Further, there are slash marks in exactly the same place in both shorthands of Carey's closing argument of the first trial indicating close comparison of the two.³⁵ The word *transcribed* in Rogerson's shorthand appears on at least one of Patterson's shorthand pages.³⁶ Many phrases in the Boreman transcript were added to Rogerson's shorthand but not to his transcript; Rogerson apparently added these phrases to his shorthand record at the same time he added them to the Boreman transcript.³⁷ Two transcription dates in Rogerson's hand, added to both his and Patterson's shorthand records of Baskin's closing arguments, support Rogerson's claims that he and Cook completed the transcription of Baskin's closing in "the winter of 1888 and '89."³⁸

The Huntington Library purchased Judge Boreman's papers, including Patterson's shorthand notes and the original typed Boreman transcript, from Boreman's son, Gilbert F. Boreman, of Ocean Park, California, on September 18, 1934.³⁹ Cook wrote: "Judge Boreman died and did not write the book he said he would. Boreman's son Gilbert of L.A. Fell [sic] into possession of the Transcript I made and also of the shorthand notes. He got sick and was out of money to live off and he sold the transcripts and the notes (shorthand notes) to the Huntington Library. [inserted above line in longhand: for \$450.00] He wanted me to certify to the transcripts before he sold them to The Huntington Library, but I would not certify to the transcript unless he paid me something for the transcripts."⁴⁰ Cook's son, J. Douglas Cook, donated Cook's carbon copy of the Boreman transcript, along with a 1947 affidavit from Cook, to the Library of Congress in 1968.⁴¹ This copy is identified as Boreman Transcript-Library of Congress. It is a complete copy of the Boreman transcript for both

trials, with the exception of Baskin's closing in the first trial.⁴² The Boreman Transcript—Library of Congress has longhand editing that is not on the copy of the Boreman transcript in the Huntington.

Rogerson, however, left a different account of the disposition of Patterson's shorthand. He wrote that Cook returned Patterson's shorthand notes to Patterson's widow, who died shortly thereafter. He maintained that Patterson's shorthand notes were permanently lost: "It is hardly possible, and barely probable, that these notes will ever be resuscitated, as they are only now rubbish, and isolate in some old trunk or barrel." Rogerson also wrote that in 1902 or 1903, and again in 1905, Cook suggested that Rogerson sell Cook's carbon copy of the Boreman transcript to The Church of Jesus Christ of Latter-day Saints. Rogerson offered the transcript and a sworn affidavit to its accuracy for \$550. He added: "I cannot think of a time in the history of our church when the suppressing from printing and publication of such a document would be more beneficial and timely."⁴³ In addition, he cautioned the First Presidency that the "reporter [Cook] could sell his transcript to ex-Senator Kearns (as publisher of the Salt Lake Tribune) or to eastern publishing companies." Apostle Francis M. Lyman proposed that the offer "be declined for the present, for lack of time to consider it, which became the sense of the meeting."⁴⁴ The church did not purchase the Boreman transcript.

Accuracy of the Boreman Transcript (BT)

While the Boreman transcript of the first Lee trial is generally a more accurate transcription than the Rogerson transcript, it still contains many unique alterations—

including additions, omissions, and changes—that are not in either shorthand record. Some Patterson shorthand passages were omitted from the Boreman transcript. Some passages added to the Boreman transcript completely contradict the established account of events. For example, of all versions of the trial transcripts, only the Boreman transcript mentions that someone with a white flag met Lee.⁴⁵ Likewise, a personal observation by Rogerson that Lee appeared “better dressed” that day in court, with no corresponding material in Patterson’s shorthand, is rewritten in the Boreman transcript to have Lee marching with the “better dressed” emigrants.⁴⁶ And an addition to William Young’s testimony places Haight at the Meadows on the day of the massacre: “Q. And did Haight make any remark? A. No, sir.”⁴⁷ Yet Haight was not present at the massacre.

The testimony portion of the Boreman transcript of the second Lee trial is generally an accurate transcript of Patterson’s shorthand, with some passages added from *Mormonism Unveiled*. Cook and Rogerson used *Mormonism Unveiled* or Rogerson’s transcript as a reference as they transcribed Patterson’s shorthand from the second trial.⁴⁸ Cook often struggled with Patterson’s shorthand when he did not have another transcription: many passages of Patterson’s shorthand which were omitted from *Mormonism Unveiled* and Rogerson’s transcript are also omitted from the Boreman transcript, probably due to the difficulty of reading the shorthand. Neither *Mormonism Unveiled* nor Rogerson’s transcript include the closing arguments of the second trial. Cook had great difficulty transcribing these, and repeatedly used “...” to indicate shorthand passages he could not transcribe.⁴⁹ He wrote in longhand at the bottom of the Boreman transcript of Foster’s closing argument, second trial: “Following this speech came Judge Spicers address to the jury, Part of ~~whi~~ of the first of which is not reported & the remainder

is so illegible that it is impossible to make an intelligent transcript of it. W L Cook transcriber.”⁵⁰ Cook wrote in longhand in the margin of his transcript of William W. Bishop’s closing, second trial, that the “speech was very imperfectly reported” and that he “thought best to adhere to the notes.”⁵¹ He does not identify which notes.

Josiah Rogerson’s Shorthand (RS)

Josiah Rogerson recorded the first John D. Lee trial in twelve numbered notebooks and a thirteenth unnumbered notebook.⁵² All extant Rogerson shorthand notebooks are located in the LDS Church History Library.

Rogerson reported that he traveled to Beaver to record the Lee trials at Brigham Young’s request. Though Rogerson wrote in a letter to the First Presidency and in other writings that he was also an official court reporter, his status in the court is unclear.⁵³

Rogerson recorded his shorthand in ordinary pencil. He later added to his record in ordinary pencil, purple pencil, and ink.⁵⁴ He added longhand letters *q* and *a* to designate questions and answers—at times incorrectly.⁵⁵ He added punctuation, including slash marks, to divide phrases. He also wrote longhand transcriptions above many shorthand words, at times incorrectly.⁵⁶ And at times he wrote over his shorthand, often in ink, sometimes obscuring his original writing. While it is usually impossible to determine whether shorthand alterations and additions in ordinary pencil were written at the time of trial or later, alterations and additions in purple pencil and ink were certainly added later, probably during transcription.⁵⁷

Rogerson also inserted shorthand words and phrases into his original record. These insertions were often copied from Patterson's shorthand.⁵⁸

Rogerson occasionally recorded in shorthand—but did not transcribe—his personal observations of courtroom events. During preliminary legal proceedings in April 1875, he noted: "At the termination of Spicer and during his remarks Lee wept looked around."⁵⁹ On Thursday, July 22, 1875, he noted, "John D Lee and his 3 wives were in court."⁶⁰ He said that when massacre participant Philip Klingensmith gave his name at the beginning of his testimony, "in rather excited tone he yelled it out."⁶¹ The nature of the trial testimony apparently affected Rogerson; at the top of one page he wrote, in shorthand: "killing killing killing killing killing killing was done."⁶²

In 1905, Rogerson sold his shorthand notes and "the title to the same forever relinquished" to The Church of Jesus Christ of Latter-day Saints for \$100. On March 9, 1905, in a letter to the church's First Presidency, he wrote, "I wish to make a sworn affidavit as to the correctness and fullness of my Transcript; deliver my short-hand notes to Prest. Lund, our Historian, getting the whole thing off my mind, and thereby, keeping and fulfilling my promise to Prest. Brigham Young Sr."⁶³

Transcripts by Josiah Rogerson (RT)

Josiah Rogerson showed his shorthand notes of the Lee trials to Brigham Young and Daniel H. Wells in Beaver, Utah, where they were visiting in the fall of 1876. He later quoted Brigham Young as saying, "We want them all transcribed in full, for which we will pay you,

and Bro. Wells you see that he is paid.” Rogerson began transcribing his shorthand in Salt Lake City in 1883.⁶⁴ As he proceeded, he occasionally recorded in his shorthand notebooks the dates on which he worked on the transcription.⁶⁵

Rogerson’s record indicates that he began his transcription with the testimony portion of Lee’s first trial. He probably continued on through the end of the testimony, then began on the attorneys’ legal arguments.⁶⁶ He summarized parts of the shorthand as he transcribed, apparently at the request of church president John Taylor: “Am carrying out your instructions in making digest or synopsis of Lee trial, and think, am half through.”⁶⁷ He detailed his progress in his letters to the First Presidency.⁶⁸ His work with Cook in transcribing Baskin’s closing argument from the first trial was the final labor on both the Rogerson and Boreman transcripts.⁶⁹ Rogerson never transcribed defense attorney Wells Spicer’s opening argument for the defense in the first trial, William Carey’s closing argument for the prosecution, juror interviews, and many legal arguments.

In 1884 Rogerson traveled to Cache Valley, where he recorded James Haslam’s account of his September 1857 ride from Cedar City to Salt Lake City to get Brigham Young’s instructions regarding the emigrants at Mountain Meadows.⁷⁰ Rogerson’s transcript of this testimony was published as an addendum to Charles W. Penrose’s *The Mountain Meadows Massacre*.⁷¹ The shorthand of Haslam’s statement is not extant, but the transcript is reproduced in Appendix A.

In 1911 Rogerson again transcribed and summarized portions of his shorthand while working on a history of the Mountain Meadows Massacre. Only portions of this transcript are extant.⁷²

Accuracy of Josiah Rogerson's Transcript

First Trial

Comparing Josiah Rogerson's shorthand with his transcript of the first trial reveals numerous, often significant, differences.⁷³ Many of these differences altered the factual or emotional content of the transcript in ways that either protected a person or group from incriminating evidence or incriminated them beyond what the shorthand notes warranted.

As Rogerson transcribed, he sometimes changed names, numbers, and dates (including numbers recorded as digits).⁷⁴ He added, omitted, and altered witness testimony and attorney comments. He added extensive material from Patterson's shorthand, as well as from various published sources and from other, unspecified sources.⁷⁵ He omitted many pages of legal arguments that took place among the attorneys and Judge Boreman, and many of Boreman's statements. He also altered the closing arguments of Lee's defense attorneys.

Rogerson inserted negatives (such as *no* and *not*) into his shorthand and into his transcript; he also omitted negatives from his transcript that were in his shorthand. In Joel White's answer to a question about whether he saw all the Indians in full view, Rogerson inserted "no" into his shorthand, then included the same in his transcript; both the Patterson shorthand and Boreman transcript read "yes sir."⁷⁶ He inserted "not" into his transcript of Carey's opening:

Rogerson Shorthand

Rogerson Transcript

it seems incredible that such a crime could have been committed could have been known by so many persons for so long a time and so little known about it as heretofore	it seems remarkable that such a crime could have been committed and not be known by so. many persons for so long a time, and so little known about it. ⁷⁷
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Rogerson added, deleted, and changed names throughout his transcript, thereby appearing to protect or incriminate different persons. In John W. Bradshaw’s testimony, for example, Rogerson twice wrote “Haight” in shorthand, then in longhand above the shorthand, but omitted it from his transcript:

Rogerson Shorthand

Rogerson Transcript

it was Sunday meeting, and Haight <Haight> was speaking of those who had passed here	it was Sunday meeting, and it was the subject spoke of ⁷⁸
Where was it you say Haight <Haight> was when he told you to go rendezvous	Q. Where was it you say when they told you to go to the rendezvous? ⁷⁹

On the other hand, Rogerson inserted Haight’s name elsewhere in an incriminating manner:

Rogerson Shorthand

Rogerson Transcript

<p>Smith's [Klingensmith's] testimony here that the destruction of emigrants was «the subject of the» conversation and determined upon, notwithstanding that that had been talked on Sunday previous the day before, they were sent and ordered by Haight to go Pinto and allay excited savages, that these emigrants might pass through the country in peace and unmolested.</p>	<p>reconcile this statement with his [Klingensmith's] former one, in regard to the destruction of the emigrants, if you can, asking you to bear in mind that he said that on Sunday, Haight called upon the people to destroy the emigrants, and now he, Haight, sent him and Joel White with a message of peace and ordered the bishop to restrain the Indians that the emigrants might pass unmolested through the country⁸⁰</p>
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The Rogerson transcript also twice omits Ira Allen's name from Joel White's testimony, though Rogerson wrote the name in both shorthand and in longhand in his notes.⁸¹

Rogerson also inserted or removed Lee's name in his transcript. He added Lee's name to Joel White's testimony about the activity of the Indians just as the shooting began, changing "I don't know where they was" to read "I don't know where Lee was."⁸² And again, also in Joel White's testimony:

Rogerson Shorthand

Rogerson Transcript

would be signal given halt when that word halt was given it was for to fire	would be a signal given, halt, to Lee, when that word "halt" was given it was for to fire ⁸³
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Rogerson changed the shorthand "white men" to "John D. Lee" in a legal argument by Lee's attorney Jabez G. Sutherland.⁸⁴ The Rogerson transcript of Philip Klingensmith's testimony says that Lee ordered him to go to the meadows, but the context clearly indicates that Haight told him to go.⁸⁵

There are many other examples of Rogerson's changes. He inserted numerous passages of text into his transcript that do not appear in his shorthand or in Patterson's shorthand. He inserted an exchange between prosecutor Robert N. Baskin and defender William W. Bishop, and altered a comment by Baskin:

Rogerson Shorthand

Rogerson Transcript

[No related text in shorthand]	Baskin objected and said: the application of this would be pretty rough on the Mormon Church in this case. Bishop: I didn't know the Mormon Church were on trial. ⁸⁶
[Baskin speaking:] He says he proposes to prove what was done by the Church, what	[Baskin speaking:] He says he proposes to

was the practice was [regarding Church discipline for disobedience]	prove what was done by the Church—what was the pretext for the Mountain Meadows Massacre ⁸⁷
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Rogerson omitted William Carey’s charge in his opening argument that the white men and Indians played games while the emigrants were under siege and their supplies ran out.⁸⁸ He quoted Sutherland as saying that he received an affidavit from “two prominent physicians in Salt Lake City who were attending” Brigham Young and George A. Smith, reporting they were too feeble to travel to Beaver to testify. No other version indicates there were *two* physicians, and no other version mentions the idea of prominence.⁸⁹ He omitted a statement from Sutherland’s closing that Klingensmith wore his revolver and butcher knife while on the witness stand.⁹⁰ Rogerson also added, deleted, and altered testimony regarding Indians.⁹¹

Rogerson’s changes to the attorneys’ closing arguments, as a rule, are even more extensive than his changes to testimony.⁹² His alterations to closing arguments often depicted the Mormons more negatively than the actual speeches had.⁹³ For example, local Mormon and militia leaders held a meeting in Cedar City to discuss concerns about the emigrant train. The Rogerson transcript of Enos D. Hoge’s closing dated the meeting before the arrival of the emigrants, while the shorthand (and all testimony) placed it after the train had passed through Cedar City.⁹⁴ The Rogerson transcript of Hoge’s and Bishop’s closing arguments for the defense contains many additions, including strongly anti-Mormon statements and graphic descriptions of the massacre.⁹⁵ The Rogerson transcript of

Sutherland's closing bears only passing resemblance to the original shorthand.⁹⁶ It includes significant statements that have no known source, including a statement that the jury had been sequestered, and particularly colorful descriptions of the massacre.

Second Trial

Josiah Rogerson wrote that he reported only part of the second trial: "I want this understood, that I only reported the new and additional testimony, in the second trial, and this was due to the fact that President D. H. Wells, who was there all the time, did not think it necessary to report the other testimony being brought out again, and a repetition, in main, of what had been introduced in the first trial."⁹⁷ There is no record to show how much of this trial he actually did record; the only extant Rogerson shorthand from the second trial is a legal plea filed September 18, 1876. His statement implies that testimony in the second trial was mostly a repetition of testimony given in the first trial, and it therefore did not need to be recorded. But examination of other sources reveals that the second trial contained a significant amount of new information from new witnesses.

Rogerson's transcript of the second Lee trial is an almost verbatim copy of the partial transcript published in *Mormonism Unveiled* (1877) by Lee's attorney, William W. Bishop; it even includes summary statements found in *Mormonism Unveiled* that are not in any shorthand record.⁹⁸ There is no evidence that any part of the Rogerson transcript of the second trial was taken from Rogerson shorthand.⁹⁹

Transcription Challenges

Words in Pitman shorthand are written phonetically, as they sound, without reference to conventional English orthography. All vowels are written as diacritics, as are most initial *h*, *w*, and *y* letters; all these are considered optional and are usually omitted, though some information regarding the vowel may be indicated by the word's placement above, on, or below the line.¹⁰⁰ The omission of vowels—and of an initial *h*, *w*, and *y*—makes it difficult, and at times impossible, to differentiate between words with the same consonants where the only difference would be in the omitted letters.

The words *rod* and *yard* in the shorthand recorded by Josiah Rogerson and Adam Patterson are excellent examples of such words. When the diacritics for the vowels and the initial *y* are not written, as is usually the case in these shorthand records, both words are written simply *rd*. It is therefore impossible for the transcriber to correctly determine which word the reporter actually heard and intended to write. All distances stated in the Lee trials using the words *rod* and *yard* must be verified by other sources, if possible. Where Rogerson or Cook transcribed the word, the transcription has been followed. Yet their transcriptions were made years after the trial. Rogerson could not have reliably remembered a single word in the lengthy trial proceedings, and Cook did not attend the trials. Therefore, even their transcriptions of these words require verification from external sources.

Conclusion

Comparison of Rogerson's and Patterson's shorthand records with the transcripts reveals accuracies and inaccuracies in the transcripts—both of which, at times, are

significant. The most reliable way to read the trial transcripts for John D. Lee's two trials is to use a comparison text. To this end, this work reproduces the trial sources in full in a comparison matrix. Where there is only one source, it is provided—but, of course, no comparison is available. Where there are two or more sources, the trial matrix provides a line-by-line comparison. This matrix is the most complete source available to help researchers begin to understand the two trials of John D. Lee for his role in the Mountain Meadows Massacre.

1. The Rogerson shorthand is located in Josiah Rogerson, *Transcripts and notes of John D. Lee trials, 1875–85*, CHL. The Patterson shorthand is located in the Jacob S. Boreman Collection, Huntington Library, San Marino, CA. Pitman shorthand was developed by Isaac Pitman; it was first presented in England in 1837. See the biographical register in the accompanying book for more information on Patterson, Rogerson, Lee, and most others mentioned herein.

2. The legal plea is dated September 16, 1875. How much of the rest of the second trial Rogerson recorded, if any, is unknown. Rogerson also recorded legal proceedings before the beginning of the first trial, legal proceedings between the two trials, and the announcement of Lee's death sentence.

3. The Rogerson transcript is located in Josiah Rogerson, *Transcripts and notes of John D. Lee trials, 1875–85*. The Boreman transcript is located in the Jacob S. Boreman Collection, Huntington Library. Lee's attorney, William W. Bishop, published the partial transcript of the second trial in *Mormonism Unveiled* shortly after Lee's death. William W. Bishop, ed., *Mormonism Unveiled; Or the Life and Confessions of the Late Mormon Bishop, John D. Lee; (Written by Himself)* (St. Louis: Bryan, Brand, 1877), 302–78. *Mormonism Unveiled* does not give the source for this partial

transcript; it presumably was taken from the transcript of testimony given at the second Lee trial that Patterson prepared under court order for Lee's appeal. The original manuscript of this transcript is not extant.

4. A longhand transcript of Judge Jacob S. Boreman's instructions to the jury, in the second Lee trial is extant. The document is signed by Boreman, and may be in his hand. There is no indication on this manuscript of who provided the transcription. See Trial matrix, 3969–80.

5. Josiah Rogerson to First Presidency, Mar. 9, 1905, First Presidency, Miscellaneous Documents, 1887–1918, CHL.

6. Josiah Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents; W. L. Cook to Juanita Brooks, Jan. 31, 1946, Feb. 9, 1946, Juanita Brooks Correspondence, Huntington Library, San Marino, CA; W. L. Cook, affidavit, May 1, 1947, Papers of W. L. Cook, 1875–1876, Library of Congress, Washington, D.C. Rogerson's account of his work on the Boreman transcript is discussed below.

7. Rogerson's shorthand recorded Annie Hoag's account of what the Indians told Lee at the Meadows, "They was not going to do the dirty work alone," while Patterson's shorthand reads, "They was not going to do their damn dirty [*space*]." The Boreman transcript combines the two: "Said they was not going to do their ~~di~~ damn dirty work alone." JDL1-RS, 4:13; JDL1-PS, 5:18; JDL1-BT, 4:28, Trial matrix, 936.

8. Books 6, 8–10, and 13, first trial, are not extant. These books were apparently lost before Cook and Rogerson created the Boreman transcript. Several sources identify Patterson as the official court reporter. See Frederic Lockley, "Lee's Trial," *Salt Lake Daily Tribune*, July 15, 1875; MB1, p. 209, July 12, 1875; "Drumming up Sensations," *Deseret News*, Sept. 8, 1875; MB1, p. 450, Sept. 11, 1876.

9. Book 1, containing jury interviews and opening arguments, is missing. All of Patterson's shorthand for both trials appears to have been recorded during the actual courtroom proceedings. There is one exception: Patterson made a shorthand copy of affidavits sworn by Brigham Young and George A. Smith in Salt Lake City during the first trial and telegraphed to Beaver. See Patterson shorthand book 11.

10. Patterson recorded fewer legal arguments than Rogerson; he wrote in the middle of one lengthy legal argument, "There was good lot of law read of which I did not think there was any necessity for." JDL2-PS, 3:37, Trial matrix, 3772.

11. See history of Boreman transcript, below, on Rogerson's access to Patterson's shorthand.

12. Rogerson also put insertion marks in Patterson's shorthand to indicate places where his own shorthand contained material that Patterson's did not.

13. "Drumming up Sensations," *Deseret News*, Sept. 8, 1875.

14. John D. Lee recorded in his diary that "Mr. Patterson informed Me that [he] was about to publish a Book on My Trial of 200 Pages." *MC*, 2:371, Sept. 26, 1875. Even though no evidence exists that a Patterson transcription was ever published, Fred Lockley, a *Salt Lake Daily Tribune* reporter, did publish a sixty-four page pamphlet giving some details of the first trial. *The Lee Trial* (Salt Lake City: Tribune Publishing, 1875).

15. See Order for Transcript, Second Trial of John D. Lee, MB1, p. 481, Sept. 21, 1876, reproduced in chapter 39, "John D. Lee's Appeal"; Bill of Exceptions, Sept. 25, 1876, CCF 31, reproduced in chapter 39, "John D. Lee's Appeal." "Mr. W. W. Bishop, counsel for John D. Lee, has got his brief out, and Mr. A. S. Patterson, the stenographer who reported the last trial, has finished transcribing his notes for Mr. Bishop's use" ("Supreme Court," *Salt Lake Daily Tribune*, Jan. 23, 1877).

16. See “Literary,” *Salt Lake Daily Tribune*, Oct. 12, 1877.

17. “A. S. Patterson Dead,” *Deseret Evening News*, Aug. 23, 1886.

18. “Literary,” *Salt Lake Daily Tribune*, Oct. 12, 1877.

19. The trial transcripts provided a list of all documents that were sent to the Utah Supreme Court for Lee’s appeal. The opening and closing arguments were not among them. Bundle C, Boreman Collection, Huntington Library.

20. Bishop, *Mormonism Unveiled*, 359.

21. Bishop, *Mormonism Unveiled*, 376.

22. Juanita Brooks corresponded with Cook as she performed research for her book *The Mountain Meadows Massacre*, which was published in 1950. Cook to Brooks, Jan. 31, 1946, Brooks Correspondence; Juanita Brooks, *The Mountain Meadows Massacre* (Stanford: Stanford University Press, 1950); Juanita Brooks, *The Mountain Meadows Massacre*, 2d ed. (Norman: University of Oklahoma Press, 1991).

23. W. L. Cook to Juanita Brooks, May 29, 1946, Brooks Correspondence.

24. W. L. Cook to Juanita Brooks, Feb. 9, 1946, Brooks Correspondence. Cook also reported, “In January 1886 he was duly appointed official court reporter by Judge Boreman for the Second Judicial District of Utah and several years after said Judge asked me to transcribe Mr. Patterson’s shorthand notes of the two Lee trials, as he wanted to write a book on the same and that Adam Patterson was dead.” Cook affidavit, May 1, 1947, Papers of W. L. Cook.

25. Cook to Brooks, Jan. 31, 1946, Brooks Correspondence. Cook later described “that he got out a complete transcript of the two trials—making two copies, one of which was delivered to Judge Boreman, and the second copy is the foregoing transcript of the two said trials as transcribed by me from said Adam Patterson’s shorthand notes.” Cook affidavit, May 1, 1947, Papers of W. L. Cook.

26. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents.

27. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents. Rogerson's shorthand is generally more clearly written than Patterson's shorthand.

28. The original of Cook's typed transcript of Baskin's closing is in the Boreman transcript at the Huntington Library. The transcript of Baskin's closing in the Rogerson transcript is a carbon copy of the original in the Boreman transcript, including many longhand corrections. The copy of the Boreman transcript in the Library of Congress is a carbon copy of the original in the Huntington Library; this copy does not contain Baskin's closing, as the carbon copy was placed in the Rogerson transcript.

29. Specific mistyped words, including *wzas wasere*, *arguement* (British spelling of *argument*), *staid*, *Indian&s*, *Ind&ians*, *thzat*, *tha t*, *that*, *croud*, *ou&r*, *hijm*, *h&ow*, *they*, *d&id*, appear repeatedly in the Boreman transcript and in Baskin's closing (first trial), but rarely, if ever, in the Rogerson transcript, except in the carbon copy of Baskin's closing, which Rogerson sold to The Church of Jesus Christ of Latter-day Saints as his own transcript of Baskin's closing argument.

30. JDL1-PS, 4:18; JDL1-RS, 3:26; JDL1-BT, 3:118. Words written in longhand are in bold.

31. Comparison of Patterson's shorthand and Rogerson's shorthand and transcript with the Boreman transcript shows how extensively Cook used Rogerson's work.

32. Rogerson's longhand transcriptions on Patterson's shorthand are not always accurate.

33. JDL1-RS, 4:40. This is the only time Rogerson gives Cook's name; elsewhere, he refers to him as "the reporter."

34. Rogerson's hand symbol appears in exactly the same location in the Rogerson and Patterson shorthands in the following places: JDL1-PS, 5:3, JDL1-RS 4:2; JDL1-PS 5:5, JDL1-RS 4:4; JDL1-PS 5:29, JDL1-RS 4:21; JDL1-PS 5:41, JDL1-RS 4:31; JDL1-PS 7:23, JDL1-RS 6:24; JDL1-PS 7:44, JDL1-RS 6:39. Rogerson did not use Patterson's shorthand in his own transcription of the second Lee trial; rather, he copied the partial transcript published in *Mormonism Unveiled*. The presence of his hand symbol on Patterson's shorthand from the second trial therefore is additional evidence

that he helped create the Boreman transcript for the second trial. Numerous insertion marks on Patterson's shorthand, without any added text, appear at places where Rogerson recorded shorthand notes but Patterson did not, which also indicates the two records were compared.

35. Rogerson did not transcribe Carey's opening for the Rogerson transcript.

36. JDL1-PS, 13:1.

37. For example, see William Young's testimony regarding what Lee and the emigrants loaded into the wagons before leaving the corral: JDL1-PS, 5:36—"It seemed to be clothing and other things"; JDL1-BT, 4:51—"It seemed to be clothing and traps"; JDL1-RS, 4:28—[inserted: "it seemed to be clothing and traps"]; JDL1-RT—does not include this passage. Other additions include "where they towards the emigrants," JDL 1-RS, 7:70; "and they talked," JDL 1-RS, 7:71; "do you know Ira Allen," JDL 1-RS, 5:58; "I suppose he did"; JDL 1-RS, 3:3; and "then under military orders," JDL 1-RS, 3:4.

38. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents. Two 1888 dates appear on the shorthand of Baskin's closing, both in Rogerson's hand. See JDL1-RS, 13:3: "**Transcribed July 11/88,**" and JDL1-PS, 13:24: "**Nov 15/88.**"

39. Boreman Collection, Huntington Library.

40. W. L. Cook to Juanita Brooks, Feb. 9, 1946, Brooks Correspondence.

41. Papers of W. L. Cook, 1875–76, Library of Congress.

42. Cook did not have possession of Baskin's closing. Rogerson placed the carbon copy of Baskin's closing with his own papers and represented it as his own transcript. There is therefore no copy of Baskin's closing in the copy of the Boreman transcript that Cook donated to the Library of Congress.

43. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents. At the time, Rogerson was trying to sell Cook's carbon copy of the Boreman transcript to the

church; he therefore told them that Patterson's shorthand was lost and could not be transcribed in the future. Evidence from the documents themselves suggests that the currently nonextant Patterson shorthand notebooks were lost before Rogerson and Cook transcribed the shorthand records.

44. First Presidency minutes, Apr. 5, 1905, First Presidency's Office, The Church of Jesus Christ of Latter-day Saints, Salt Lake City, excerpt provided in Brook Hales to Glenn Rowe, email, Oct. 15, 2010.

45. JDL1-BT, 3:125; JDL1-PS, 4:22; JDL1-RT, 2:151; JDL1-RS, 3:29.

46. JDL1-RS, 4:6; JDL1-RT, 1:181; JDL1-BT, 4:17.

47. JDL1-BT, 4:56.

48. Some passages in the Boreman transcript of the second trial are in *Mormonism Unveiled* and in Rogerson's transcript, but not in Patterson's shorthand.

49. See JDL2-BT, 4:10, 13, 17–22.

50. JDL2-BT, 3:[21].

51. JDL2-BT, 4:1. Patterson's shorthand for these closing arguments is not significantly more difficult than the rest of his shorthand.

52. This last notebook includes much of prosecutor Robert N. Baskin's closing argument, some legal proceedings, and portions of Lee's autobiography. The fragment of Lee's autobiography is written on the verso of Baskin's closing. It appears to have been recorded from dictation. It is clearly not in Rogerson's hand; it was probably recorded by Waddington L. Cook, with whom Rogerson worked on the Boreman transcript. Also in the same hand are shorthand notes from a campaign speech by candidate Fred T. Dubois, candidate for reelection as Idaho territorial representative to Congress, between October 16 and November 6, 1888; Dubois's opponent, John Hailey, may also be speaking.

This thirteenth notebook also contains numerous loose pages, including records from grand jury selection, various pretrial motions, pleas for continuance, a pretrial motion for dismissal of charges on a legal technicality, two pages regarding the second trial, and the last two pages of Lee's death sentence. The remainder of these loose pages and other Rogerson shorthand records are totally unrelated to John D. Lee and Mountain Meadows.

53. See Rogerson to First Presidency, Mar. 9, 1905, First Presidency, Miscellaneous Documents. Aside from Rogerson's claims, there is no corroborating evidence that he was indeed sworn in by the court as an official reporter. Josiah Rogerson, autobiography, manuscript, p. 1, in Josiah Rogerson Papers, CHL; Josiah Rogerson to Mr. Gallagher, Jan. 3, 1914, Josiah Rogerson Collection of Handcart Company Sources, BYU.

54. There are about 1,100 purple pencil insertions into Rogerson's shorthand. Almost two-thirds of these are *q* and *a*, to designate questions and answers. A significant portion of the remainder are one-word insertions, often articles and prepositions, which could have been made without reference to Patterson's shorthand. There are no insertions in purple pencil in Boreman's instructions to the jury or in any closing argument, except Baskin's closing. There are more than 3,150 ink insertions into Rogerson's shorthand. These additions tend to be more substantive than those in purple pencil; only about 30 percent are *q* and *a*. A significant portion of the ink additions are in Bishop's and Baskin's closings.

55. Some *q* and *a* letters inserted into the shorthand documents by Rogerson incorrectly designate an answer as a question or vice versa. Others are inserted into the middle of a question or answer.

56. Some shorthand symbols can represent one of several words, depending on context. At times Rogerson apparently wrote these preliminary transcriptions above the line with little respect to the context of the word, resulting in an incorrect transcription.

57. Rogerson inserted shorthand in ink from the very start of his shorthand record; material inserted in purple pencil, except heading notes and a very few *q* and *a* letters, first appears in Klingensmith's testimony.

58. Rogerson's insertions from Patterson's shorthand into his own shorthand and transcript indicate that he had access to Patterson's shorthand either before or at the time he made his transcription. He may have compared his shorthand report to Patterson's shorthand and copied phrases from the latter into his own notebooks during the trial itself. Rogerson inserted shorthand phrases in regular pencil into Patterson's record of Spicer's opening for the defense in the first trial, though Rogerson did not transcribe it, which indicates he made some insertions independent of his transcription work.

59. Apr. 14, 1875, RS, p. 5.

60. July 22, 1875, JDL1-RS, 1:7.

61. JDL1-RS, 2:18.

62. JDL1-RS, 9:37.

63. Rogerson to First Presidency, Mar. 9, 1905, First Presidency, Miscellaneous Documents. At the same time, he also received \$35 for a transcript of Baskin's closing and \$15 for comparing his notes with his transcript in 1884 and for furnishing Brigham Young with the first full copy of the speech Lee made just prior to his execution. Rogerson had already been paid for his transcript, drawing money from an account while he worked. Rogerson to Taylor, Dec. 8, 1883, First Presidency, John Taylor Presidential Papers, 1877-1887, CHL.

64. Rogerson to First Presidency, Mar. 9, 1905, First Presidency, Miscellaneous Documents; Rogerson to Taylor, Dec. 8, 1883, First Presidency, Taylor Presidential Papers. Rogerson did not state why he waited to transcribe his notes in Salt Lake City rather than in Beaver. With the exception of Baskin's closing, the Rogerson transcript is typed in the all upper-case, block-letter, sans-serif font of the first Remington typewriter. Rogerson had previously transcribed parts of the

first trial. A transcription note on Rogerson's shorthand of Bishop's closing, dated August 29, 1875, indicates he made a transcription at the time of the trial. This transcription was not published and is not extant. JDL1-RS, 11:28. Unattributed transcriptions of closing arguments by Jabez G. Sutherland and Enos D. Hoge appeared in "The Lee Trial," *Deseret News* on August 25, Sept. 8, 1875. These transcriptions differ from the shorthand, especially the transcript of Sutherland's closing. Rogerson later copied these transcriptions into the Rogerson transcript; the published transcription of Sutherland's closing was also copied into the Boreman transcript. Rogerson possibly produced these transcriptions for the *Deseret News*.

65. Rogerson noted the following transcription dates in his own shorthand notebooks: "**Transcribed. - Jan 1884. JR.**" (JDL1-RS, 2:9); "**Aug 3-10am reseeded here** transcribing" (JDL1-RS, 3:28); "**Mng Nov 29/83**" (JDL1-RS, 3:34); "**Transcribing 945 am Dec 6/83**" (JDL1-RS, 4:5); "**Monday Dec 17 10:30 a.m.**" 1883 (JDL1-RS, 4:33); "**Transcribed Mar 1/88.** For Cook." (JDL1-RS, 4:40); "***Dec. 24/1030 pm.**" (JDL1-RS, 6:2); "**Aug 4/75** from 915 **till.** 11.45." (JDL1-RS, 11:27); "Transcribed Sunday August 29/75" (JDL1-RS, 11:28); "**Transcribed July 11/88**" (JDL1-RS, 13:3). Also, in Patterson's shorthand notebook, written in Rogerson's longhand: "**Nov 15/88**" (JDL1-PS, 13:24).

66. JDL1-RS, 2:9, gives the date "JAN 1884," which is later than most of the dates given elsewhere.

67. Rogerson to Taylor, Dec. 8, 1883, First Presidency, Taylor Presidential Papers. He also reported to Taylor: "I have brought the transcript down to less than one third in the number of words, that there are in the shorthand notes." In reality, his transcript contains much more than one-third of the number of words found in the shorthand. Rogerson to Taylor, Feb. 27, 1884, Taylor Presidential Papers.

68. Rogerson wrote in February 1884: "The transcript of the first Lee trial is completed,

with the exception of Mrs Hoges testimony . . . and some Cross examination of Klingensmith.” He intended to begin on the second trial about March 15, 1884. Rogerson to Taylor, Feb. 27, 1884, Taylor Presidential Papers. In 1884 Rogerson compared his notes with his transcript in the Church Historian’s Office. Rogerson to First Presidency, Mar. 9, 1905, First Presidency, Miscellaneous Documents.

69. See longhand notes in JDL1-RS, 13:2, and JDL1-PS, 13:24; Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents. Analysis of typographical errors indicates that Cook, not Rogerson, typed this transcript. The Rogerson transcript of Baskin’s closing for the prosecution in the first trial is a carbon copy of the Boreman transcript of the same, including many handwritten corrections. The Boreman transcript includes additional longhand corrections and notes that are not on the Rogerson transcript.

70. James Haslam, interview by Scipio A. Kenner, reported by Josiah Rogerson, Dec. 4, 1884, typescript, in Josiah Rogerson, Transcripts and Notes of John D. Lee Trials, CHL, reproduced in Appendix A.

71. *Supplement to the Lecture on the Mountain Meadows Massacre: Important Additional Testimony Recently Received* (Salt Lake City: Juvenile Instructor Office, 1885); Charles W. Penrose, *The Mountain Meadows Massacre; Who Were Guilty of the Crime?* (Salt Lake City: Juvenile Instructor Office, 1884).

72. Extant portions of Rogerson’s 1911 transcriptions and of his history of the massacre are available in Collected Material Concerning the Mountain Meadows Massacre, CHL.

73. As noted above, the only extant Rogerson shorthand for the second trial is a single legal plea.

74. For an example of changing numbers, see JDL1-RT, 1:141; JDL1-RS 3:25.

75. Closing arguments by Sutherland and Hoge were copied from “The Lee Trial,” *Deseret*

News, Aug. 25, Sept. 8, 1875. Boreman's instructions to the jury were copied from the *Salt Lake Daily Tribune*, Aug. 4, 1875, or "The Lee Trial," *Deseret News*, Aug. 11, 1875.

76. JDL1-RS, 4:5; JDL1-RT, 1:179; JDL1-PS, 5:6 (the Patterson shorthand reads: "you saw all the them pretty near yes sir in one view yes sir"); JDL1-BT, 4:15 (the Boreman transcript reads: "Q. You saw all of them, pretty near? A. Yes, sir. Q. In full view? A. Yes, sir.").

77. JDL1-RS, 2:12; JDL1-RT, 1:43.

78. JDL1-RS, 5:24; JDL1-RT, 2:250; JDL1-PS is not extant; JDL1-BT, 4:76, is the same as JDL1-RS. Bold type in the example indicates that these words were written in longhand.

79. JDL1-RS, 5:29; JDL1-RT, 2:260; JDL1-PS is not extant; JDL1-BT, 4:84, is the same as JDL1-RS.

80. JDL1-RT, 5:5; JDL1-RS, 11:10.

81. JDL1-RS, 3:36; JDL1-RT, 1:163.

82. JDL1-RS, 3:[31]; JDL1-RT, 1:153; JDL1-PS, 4:23; JDL1-BT, 3:127.

83. JDL1-RS, 3:30; JDL1-RT, 1:152; JDL1-PS, 4:22-23; and JDL1-BT, 3:126, are almost identical to Rogerson's shorthand.

84. JDL1-RS, 8:27; JDL1-RT, 4:438.

85. JDL1-RS, 2:22; JDL1-RT, 1:61. Lee was at the Meadows at this time, not in Cedar City where the event described took place.

86. JDL1-RT, 4:449-50; JDL1-RS, 8:44. JDL1-BT contains only a brief summary of the legal arguments; JDL1-PS is not extant.

87. JDL1-RS, 8:38; JDL1-RT, 4:448. JDL1-BT, 5:290 is almost identical to JDL1-RS; JDL1-PS is not extant.

88. JDL1-RT, 1:37; JDL1-RS, 10:39; JDL1-PS, 2:19; JDL1-BT, 2:5.

89. JDL1-RT, 2:246, 311; JDL1-RS, 5:22, 6:13; JDL1-BT, 4:72, 125-26; JDL1-PS 6:9-10.

90. JDL1-RS, 10:133.

91. Rogerson deleted from his transcript Samuel Pollock's testimony that the "Indians had approached them [the emigrants] at all accessible points and every soul that made their appearance out of camp were shot at by Indians from these points." JDL1-RT, 2:232; JDL1-RS, 4:[36]. Some of his alterations create a less negative image of the Indians than the shorthand warrants. In a legal argument regarding Philo T. Farnsworth's testimony, defense attorney Enos D. Hoge rehearsed the outrages committed by the emigrants against the Indians and stated that the Indians followed the wagon train as it moved south. Rogerson's shorthand reads that the Indians "followed these emigrants with the avowed determination of exterminating them," while his transcript only states that the Indians "followed the emigrants to Beaver County and attacked them there, and continued to follow them." JDL1-RS, 8:44; JDL1-RT, 4:449. In John Hamilton Sr.'s testimony regarding the Indians, Rogerson changed the question, "you say they had ~~some~~ cooking utensils" to read, "you say they had committed a disturbance?" JDL1-RS, 9:15; JDL-RT, 4:472.

92. As noted above, analysis of typographical errors indicates that Cook typed Baskin's closing in the first trial.

93. Rogerson did not acknowledge the inaccuracies in his transcription, except writing that he condensed it at President John Taylor's request, as noted above. He never explained his insertion of anti-Mormon materials or his insertion into defense attorneys' arguments of graphic descriptions of the massacre. It is possible that he was writing what he thought was wanted, or was seeking to encourage The Church of Jesus Christ of Latter-day Saints to purchase the transcripts in order to suppress them. In 1905 he encouraged the church to purchase Cook's carbon copy of the Boreman transcript in order to prevent its publication. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents.

94. JDL1-RS, 11:9; JDL1-RT, 5:2-3; JDL1-BT 7:2; JDL1-PS not extant.

95. Rogerson's transcript of Hoge's closing is copied from the transcript, presumably by

him, which was published in “The Lee Trial,” *Deseret News*, Sept. 8, 1875.

96. Rogerson’s transcript of Sutherland’s closing is copied from the transcript, presumably created by him, which was published in “The Lee Trial,” *Deseret News*, Aug. 25, 1875. See “John D. Lee Trial Transcripts” in the accompanying digital material.

97. Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents.

98. See JDL2-BT, 1:143; Bishop, *Mormonism Unveiled*, 378. This transcript does not match Rogerson’s claim that he “only reported the new and additional testimony, in the second trial.” Rogerson to First Presidency, ca. Apr. 1905, First Presidency, Miscellaneous Documents. The partial transcript of the second trial in *Mormonism Unveiled* and Rogerson’s copy of the same both omit James Haslam’s testimony, although it is summarized in *Mormonism Unveiled*. Both the Rogerson transcript and *Mormonism Unveiled* omit the last part of Nephi Johnson’s cross-examination. *Mormonism Unveiled* notes the omission; the Rogerson transcript does not. All testimony by Haslam and Johnson would certainly be regarded as new, suggesting that Rogerson should have recorded it.

99. If Rogerson had recorded testimony or legal arguments from the second trial, and if he and Cook had this shorthand while transcribing the Boreman transcript, that transcript would have included phrases from this second source and would therefore differ far more from Patterson’s shorthand than it does. The Boreman transcript of the closing arguments in the second trial thus provides additional internal evidence that suggests Rogerson did not record this part of the trial. Lacking a second source, Cook and Rogerson were unable to transcribe many passages in these arguments, which they indicated by “.....” in the transcripts; they also made notes about the difficulty of transcribing the material. The marker “.....” appears only twice in the first trial, both times in Baskin’s closing; it appears twenty-six times in the second trial, all in the closing arguments. For a discussion of problems in transcribing the closing arguments in the second trial, see the history of the Boreman transcript above. Apparently Cook and Rogerson had only Patterson’s shorthand to work with, making this section more difficult than the rest of the Boreman

transcript. Rogerson's shorthand and transcript provided additional sources for the transcription of the first trial.

100. For example, in Pitman shorthand, a curved, horizontal line represents the letter N. When written above the line, it represents *in* or *on* or *any*; on the line it is *no* or *know*. A vertical straight line represents a T. When written above the line, it represents *eat* or *ought*; on the line, it stands for *it* or *ate* or *eight*; if it is drawn crossing the line, it represents *at* or *out*. Reading Pitman is complicated further when the shorthand scribe just writes the letter without regard to placement—an approach often used by both Rogerson and Patterson.