

John D. Lee, First Trial

Preliminary Material

[These documents are part of a large group of loose, disorganized papers found with Rogerson's last shorthand notebook of the first Lee trial. Rogerson did not transcribe any of this material.]

RS

[Beaver, April 5, 1875]

^[1] [entire page is in ink] **BEAVER APL 5/75** [space] 11 AM. [space] SECOND DISTRICT COURT BEAVER CITY TERRITORY OF UTAH. JUDGE JACOB S BOREMAN PRESIDING. [space] MEMBERS OF BAR PRESENT **W W BISHOP** FROM PIOCHE. **E D HOGE**.¹ DENNY AND SWIFT. CHRISTIAN WHEDON. SPICER LOPER. JOHN MCFARLANE AND **M C HAWLEY** [space] FIRST MOTION OF COURT BY HOGE THAT **W W BISHOP** BE ADMITTED TO PRACTICE THIS COURT. JUDGE ORDERED BE ADMITTED. USUAL OATH ADMINISTERED BY CLERK WILKINS. [space] MOTION BY SPICER JOHN D LEE BE BROUGHT INTO COURT AND ARRAIGNED. [space] WALKER VS SEARLES[?]. MOTION TO SET ASIDE SUIT **&C** BY DENNY AND SWIFT. [space] MOTION BY BEADLE THAT IT BE SET OFF [space] BY PROSECUTION TO GRAND JURY. IT IS PROPER TO ASK YOU IF YOU HAVE ANY BIAS OR PREJUDICE WITH REGARD TO ANY MAN THAT MIGHT BE BROUGHT BEFORE YOU. ¹2 "GRAY" RESIDENT WASHINGTON COUNTY. LIVED THERE 10 OR 11 YEARS. CITIZEN UNITED STATES NATIVE. READ AND WRITE. [space] ANY BIAS OR PREJUDICE AGAINST FINDING PERSON GUILTY WHERE THE CHARGE IS MURDER. CHARGED WITH THE CRIME OF POLYGAMY WITH ADULTERY LASCIVIOUS COHABITATION LIVING WITH 2 **OR MORE** WOMEN AS HIS WIFE, NO SIR. MAKE ANY DIFFERENCE IF PERSON LIVING WITH ANY SOCIETY YOU MAY BELONG TO, "I HAVE". QUESTION BY PROSECUTION OBJECTED TO BY BISHOP REFERENCE \Leftarrow FIGHTING BEADLE WITHOUT EVIDENCE \Rightarrow DAVIS [space] READ AND WRITE. FREE TO ACT IF BELONG TO SAME SECRET SOCIETY WITHOUT PREJUDICE BIAS ON ACCOUNT OF ASSOCIATION. [space] 2. ROSENCRANTZ **ROSENCRANS**. FOREIGN BORN FATHER IN ILLINOIS 14 GOING ON 15 WHEN CAME TO UNITED STATES. CAME FROM GERMANY. ACCOMPANIED WITH MY BROTHERS, FATHER WAS IN UNITED STATES 4 OR 5 YEARS BEFORE I CAME. NO BIAS OR PREJUDICE AGAINST FINDING PARTY GUILTY WERE HE CHARGED WITH CRIME OF MURDER IF PENALTY WOULD BE DEATH, I COULD. OR CHARGED WITH THE CRIME OF POLYGAMY LASCIVIOUS COHABITATION LIVING WITH ONE OR MORE WOMEN. BELONG TO NO RELIGIOUS OR SECRET SOCIETY WOULD PREVENT YOU FROM SITTING ON CASE. ACCEPTED [space] 3 EPHRAIM WILSON LIVE IN WASHINGTON COUNTY, NATIVE BORN. READ AND WRITE. NO BIAS OR PREJUDICE. [space] \Leftarrow {KERSHAW}^p \Rightarrow 11³ KERSHAW. 19 YEARS, NATURALIZED, READ AND WRITE. [space] 4 HARROUN CITIZEN IRON COUNTY BEEN THERE 18 MOST YEAR AND A HALF. 5 **JONES**. HANDED PROSECUTION STATEMENT

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1. Hoge was written phonetically: Hoje.
 2. Numbers preceding names are in margin.
 3. Name in longhand and number 11 in the left margin.

≤CERTIFICATE≥ FROM PHYSICIAN PREVENT HIM FROM SERVING AS JUROR. COURT RULED BE DISCHARGED. [space] **TANNER** NATIVE BORN CITIZEN RESIDENT BEAVER 12 **OR** 14 YEARS. CAN'T READ OR WRITE ENGLISH LANGUAGE. EXCUSED. 6 **VAN BUREN** READ AND WRITE. NOT QUESTIONED AS TO BIRTH OR PARENTAGE. ACCEPTED [space]

[April 6–7, 1875]⁴

^[5] **2ND JUD DIST COURT. IN JNO D LEE AND OTHER CASES** [space] **1875** [space] BY SPICER SAID THAT THIS CASE WAS **NO** 40 SEEMED TO BE OUT OF ITS PLACE AND IN DATE OF APPEALS IN COURT IT STANDS AHEAD OF MANY CASES THAT ARE AHEAD OF IT ON THE DOCKET. IT WILL BE REMEMBERED THAT AT THE DECEMBER TERM I APPEARED FOR THIS CASE. BUT THE COURT SAID ONLY FEW CASES WERE AHEAD OF IT NUMBER IN THE 30^S SAID **W F**^S WAS NUMBER 30 <40> [space] TO PROSECUTION ATTORNEY HOW DID THAT HAPPEN? [space] BY PROSECUTION ATTORNEY [space] I WILL STATE HERE THAT PROSECUTION WILL BE UNABLE TO TAKE THAT CASE UP THIS TERM OF COURT I GIVE THAT INFORMATION NOW BUT THEY CAN GOVERN THEMSELVES FOR WITNESSES *AGREE*[?]. [space]⁵ BY BISHOP FOR DEFENSE; WE WILL BE READY ~~FOR TRIAL~~ AND ~~WOULD~~ ≤WILL≥ PRESS THE CASE FOR TRIAL. [space] CIVIL SUIT **SILAS S SMITH VS THOS J WIM/WINR**[?] [space] **DENNY FOR DEFT READ A DEMURRER** AND PLEAD CLEAR AND FORCEABLE MANNER AS TO CASE RELATIVE LOST EQUITY. ~ <DEFENDING **SANDTFORDS FINDINGS.**> PAGE 121-3 & 5 NEW YORK CODE. ~ **WHEDON FOR PLTFF.** [space] SAID THIS WAS BROUGHT UNDER SECTION 114 **UTAH CODE**. CALIFORNIA CODE WAS TAKEN FROM **NY CODE** AND UTAH IS DUPLICATE OF CALIFORNIA. READ FROM THE FOLLOWING AUTHORITIES RELATIVE TO THE CASE **14TH CALA** 522 AND 5339. [space] I TAKE THIS COMPLAINT FORM *MHND*^S[?] FROM NY PRACTICE. FORM ESTABLISHED THERE. THIS BOOK BEEN IN USE SINCE 1872; PAGE 128 & 39 PLAINTIFF COMPLAINS ON BEHALF OF HIMSELF AND ALL OTHERS WHO SHALL IN DUE TIME GET IN AND SEEK RELIEF ON COST OF ACTION. READ⁶ FORM AS IT IS PRACTICE OF NY. ONLY ONE OF SEVERAL PLAINTIFFS REFUSE TO SEE THE CODE MAKES SEVERAL EXCEPTIONS. [space] CODE SECTION 119. ONE PRISONER CAN'T BE BOTH PLAINTIFF AND DEFENDANT IN THE SAME ACTION; ONLY ONE OR BOTH PRISONERS ARE ENGAGED IN BUSINESS. UNDERSTAND THAT THE NECESSITY INVOLVED IS GIVEN TO ALL. THERE ARE CASES WHICH IN CONSEQUENCE OF THE NUMBER OF PLAINTIFFS CONCERNED IT WOULD BE IMPROPER TO BRING THEM ALL BEFORE THE COURT. [space] BY THE COURT BY COURT *CHANCERY*[?] RULE IS OF THIS CHARACTER THAT RULE SAID THERE WAS IN CODE THE PRECEDING

4. The manuscript gives only date of Wednesday as second day of these proceedings; in the *Salt Lake Tribune* the dates are given as: Tuesday and Wednesday, April 6–7 1875.

5. In the margin of next 4 lines: // **BATES FILES AFFDVT AS TO HIS CONTEMPT ON PAGE 2.** //

6. In left margin.

SECTION. *PT*[?] IS WHY. THE *CHANCERY/CHMSR*[?] RULE WAS COMMON SMITH AGAINST *-MST*[?] AND POE. [space] THAT RULE IS LAW WORKING IN CHANCERY. IT SEEMS THAT IN CALIFORNIA IN THE SAME SECTION THERE A CLAUSE SAYS THAT IT APPLIES ONLY TO CHANCERY PROCEEDINGS. [space] 115 PARTIES WELL KNOWN *COULD BE*[?] DISCOUNTED. IF THE JURY WERE SUING IT WOULD BE UTTERLY IMPOSSIBLE TO BRING THEM IN [space] AND IN SUCH CASE AS THAT IT WOULD BE ALLOWED BUT HERE IT WOULD NOT BE IMPRACTICAL AND NO GREAT DIFFICULTY TO BRING THOSE PARTIES ALL IN AND NAME THEM AS PLAINTIFFS. THEY ARE ALL KNOWN AND NO REASON WHY THEY SHOULD NOT ALL BE MADE PLAINTIFFS. BY HAWLEY. COURT RULED [space] ⁶ **WALKER AGNST SEARLES** CALLED BY THE COURT [space] BY WHEDON. SET TO TAKE UP CASE OF *DUPY*[?] AGAINST BILL. DENNY SAID JUDGE STRICKLAND WAS CALLED *TO*[?] COUNSEL WITH BILL. *COULD NOT*[?]. COURT ASKED MR. DENNY IF THEY COULD BE READY FOR TRIAL *DUPY*[?] AGAINST BILL. ANSWERED BY JUDGE STRICKLAND SET FOR **ONE OCLOCK** =⁷ [space] GOVERNMENT RECOVERED 47⁰⁰ **DOLLS** FOR LABOR ETC. ON MINE CLAIM THIS *GOOD*[?]. BISHOP WHEDON CHRISTIAN FOR PLAINTIFF; DENNY SWIFT AND HAWLEY FOR DEFENDANT. MAN ARGUED SET ASIDE *SUMMONS*[?] THIS AFTERNOON [space] ABLY ANSWERED BY BISHOP. **BATES CONTEMPT. {WEDNESDAY 10 AM COURT}**⁸ MET PURSUANT ADJOURNMENT. GEORGE C BATES FILED AFFIDAVIT WITH CLERK RELATIVE CONTEMPT OF COURT. CLERK READ MINUTES OF TUESDAY'S PROCEEDINGS. [space] **GEO C. BATES** APPEARED IN OPEN COURT AND READ AFFIDAVIT OF SUTHERLAND RELATIVE CONTEMPT OF COURT. AFFIDAVIT OF BATE'S RELATIVE HIS COUNSEL IN THIS MATTER *MSSRS.*[?] TILFORD AND HAGAN OF SALT LAKE CITY. [space] **{COURT.}**⁹ BY THE COURT IF I ENTER THAT CONTINUANCE THE ATTORNEYS CAN'T TRANSACT ANY BUSINESS IN THIS COURT UNTIL ITS DISPOSITION, I WILL MAKE THE CONTINUANCE, NO DOUBT ABOUT THAT I HAVE NO DISPOSITION TO DO OTHERWISE [space] BY BATES THAT WILL BE ENTIRELY SATISFACTORY TO ME. REFERRED TO CASE OF WHITNEY THE RULE BEING DISCHARGED BY COURT I WILL MAKE *ONLY/ONE*[?] NO TECHNICAL OBJECTIONS TO IT. [space] WHILE YOU ARE *WON'T*[?] EXCLUDE SUTHERLAND IN THIS MATTER AS HE WAS NOT IN THE *FIELD*[?] OF BLAME [space] JUDGE WISHED TO READ SUTHERLAND'S AFFIDAVIT. [space] SAID ORDER BE DISCHARGED AS TO JUDGE SUTHERLAND AND WITH REGARD TO BATES IT BE CONTINUED. [space] I DO WANT AN ORDER OF CONTINUANCE UNLESS THERE BE SOME TIME FIXED IN RELATION TO TRIAL OF MR. DAME. [space] BY¹⁰ COURT US AGAINST **THOMAS DEMURRER** SUSTAINED THEY PETITION ON THE GROUND OF THE STATUTES OF

7. Longhand is written in left of three lines, separated from shorthand text by vertical wiggly line: **WYTHE WALKER VS SEARLES.**

8. “**WEDNESDAY**” is partially in left margin.

9. In left margin.

10. In left margin.

LIMITATIONS. [space] CASE OF HARMONY *RMM*[?] AGAINST LOPER DEMURRER AND CONTINUANCE FOR YEARS WERE MADE LIABLE THEREFORE AFTER HOWEVER THE STATUTE OF 60 AFTER THE ANCIENT COMMON LAW WAS RESTORED TO SUCH AN EXTENT SEE THE LAW SET AT THE TIME OF BLACKSTONE **3RD** THE ENGLISH LAW WAS THAT THE GENERAL ENGLISH STATUTES STATED *AND BECAUSE COMMONLY*[?] ADOPTED IN THIS COUNTRY BY GENERAL CONSENT UNDER THIS STATE OF THE LAW THE DEFENDANT WOULD BE LIABLE EXCEPT FOR MERE ACCIDENT. SECTION 360 CAN'T THEREFORE BE SUSTAINED AND DEMURRER IS THEREFORE OVERRULED. [space] BY PROSECUTOR I SHOULD LIKE TO HAVE MR. DAME BROUGHT IN THIS MORNING [space] BY BILL IN THE CASE OF FISH AND WARREN¹¹ THERE ARE WITNESSES HERE FROM JUAB COUNTY HERE POINT *EXPLAINED*[?] BY THE DEFENDANT FISH THAT WE REPRESENT IS UNDER BONDS HEAVY BONDS AND DESIRES TO REMOVE FROM THE TERRITORY INDICTMENT WAS FOUND OF SEPTEMBER LAST AND AT THE INSISTENCE OF THE DISTRICT *ATTORNEY* AND SIMPLY TO REQUEST HIS BONDING CONTINUED TWICE. THESE PARTIES ARE HERE WITH US [space]¹² NAMES OF JURORS CALLED CALLED ALL PRESENT [space] THOMAS *W-N/S-N*[?] JOHN HUNTER, STEPHEN THORNTON, HYRUM S STEVENS. SUMMONED BY COURT ON MONDAY LAST APPEARED AND ANSWERED THOMAS *W-N/S-N*[?] BY PROSECUTION CITIZEN NATIVE READ AND WRITE ENGLISH LANGUAGE. ANY BIAS OR PREJUDICE AGAINST FINDING INDICTMENT AGAINST PARTY FOR MURDER WHERE PENALTY IS DEATH [space] AGAINST DEFENDANT INDICTMENT AGAINST PERSON WHERE CHARGE IS POLYGAMY LASCIVIOUS COHABITATION NOT MEMBER OF SECRET SOCIETY RULES OF WHICH WOULD PREVENT YOU BEING *OBJECTION*[?] TO. ACCEPTED [space] **J**^{NO} HUNTER NATIVE BORN. READ AND WRITE NO BIAS OR PREJUDICE ACCEPTED [space] STEPHEN S THORNTON 25 YEARS IN THIS TERRITORY IRON COUNTY. READ AND WRITE NATIVE. ACCEPTED [space] PROSECUTION ATTORNEY SAID WOULD LIKE HAVE DAME BROUGHT IN TO PLEAD TO INDICTMENT. [space] STEVENS RESIDENT UTAH LIVED IRON COUNTY 6 YEARS READ AND WRITE ENGLISH LANGUAGE. ACCEPTED GRAND JURY WERE DULY SWORN OF *CLERK*[?] WILLIAMS AS TO SECRECY ETC. [space]¹² KERSHAW APPOINTED FOREMAN. USUAL OATH ADMINISTERED. YOU AS FOREMAN OF THIS GRAND JURY DO YOU SOLEMNLY SWEAR YOU WILL DILIGENTLY INQUIRE ANY MATTERS THAT SHALL BE GIVEN INTO YOUR CHARGE, KEEP SECRET

11. This case was recorded by Rogerson.

12. "1875" in left margin.

<p>{CHARGE TO GRAND JURY.}¹³ [space]</p> <p>BY THE COURT GENTLEMEN OF THE GRAND JURY YOU ARE NOW IMPANELED UNDER THE LAWS OF THE UNITED STATES AND THIS TERRITORY BOTH AS A GRAND JURY [space] UPON CAREFUL AND DFLFL[?] EXAMINATION INTO ALL CRIMES CRIMINAL OFFENSES THAT HAVE BEEN COMMITTED IN THIS DISTRICT AND ALL OFFENSES ACCOUNTABLE IN THIS COURT. THERE ARE SOME CRIMES THAT ARE ACCOUNTABLE IN THIS COURT THAT WERE NOT COMMITTED IN THIS DISTRICT. CRIMINAL LAWS CAN'T BE ENFORCED <EXCEPT> FROM THE MEDIUM OF A GRAND JURY AND IF THE GRAND JURY FAILS IN ITS SOLEMN AND GRAND JURY DUTY THE/HE[?] COMMITTED SEVERELY/SEVERAL[?]. IF THEY DO NOT WANT THE LAWS EN FORCED¹⁴ THEY LET THAT BE KNOWN THROUGH THE GRAND JURY. THE GRAND JURORS COME FROM THE PEOPLE AND IF THEY ARE FALSE TO THEIR OATH THE CONCLUSION HAS BEEN REACHED THAT THE PEOPLE THE GREAT BODY OF THE PEOPLE</p>	<p>[Jacob S. Boreman, charge to grand jury, April 9, 1875, excerpt in "More Boremanism," Deseret News, April 14, 1875.]</p> <p>The following is Judge Boreman's attack on 'Mormon leaders, 'depravity of polygamic offspring,' etc., in his charge to the grand jury last Wednesday. In reference to polygamy, Mountain Meadow massacre, etc., he said—</p>
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13. In the left margin of the next 4 lines in ink over pencil: **BOREMANS CHRGE TO GRAND JURY.**

14. "EN FORCED" written as two separate words.

<p>OF THIS COUNTY OF THIS DISTRICT DO NOT DESIRE THE LAWS TO BE ENFORCED. BUT DESIRE THAT CRIMINALS SHALL GO UNPUNISHED AND CRIME BE COMMITTED WITH IMPUNITY <i>TO/AND</i>[?]. THE LAWS <i>SET A DEFIANCE</i>[?]. THE PEOPLE ALL OVER THE NATION ARE NOW LOOKING TO UTAH TO SEE WHETHER THERE IS A MANIFEST DESIRE FOR THE ENFORCEMENT OF THE LAW OR WHETHER IT TO BE TRUE THAT THEY <i>WILL/WHICH</i>[?] AS IS FOUND LIBERATED HOSTILE <i>WOULD</i>[?] ITS ENFORCEMENT AND OPPOSED TO THE LAWS OF ORDER. A TERRITORY IS NOT¹⁵ LIKE A STATE ALTHOUGH IT IS OTHERWISE REPRESENTED ALL OVER THIS TERRITORY. EACH STATE MAKES AND ENFORCES HIS OWN LOCAL LAWS WITHOUT ANY INTERFERENCE OR CONTROL FROM ANY OTHER SOURCE. A TERRITORY LIKE A MAN WHO IS UNDER AGED IT IS SUBJECT TO THE CONTROL AND SUPERINTENDING CARE OF THE <i>FULL BIAS</i>[?] OF A GENERAL GOVERNMENT. AS CONSEQUENCE THE WHOLE PEOPLE OF THE NATION FEEL SOME RESPONSIBILITY IN REFERENCE TO A TERRITORY AND DESIRE THAT THE LAWS SHOULD BE SO <i>LEGAL/REGULATED</i>[?] AND ENFORCED JUST AS MUCH AS ELSEWHERE INJUSTICE AND RIOT DO NOT REIGN HERE AS RESULT. —[?] <i>LAWS/LOSSES</i>[?]. [<i>space</i>] ALTHOUGH YOU CAN HEAR ALMOST DAILY MISREPRESENTATIONS OF THE GOVERNMENT AND THIS SOCIETY</p>	
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15. Word is possibly crossed out.

YOU CAN REST ASSURED GENTLEMEN THAT THE GOVERNMENT AND THE PEOPLE OF THE UNITED STATES ARE NOT PROMPTED BY ANY—*BUT THE*[?] KINDEST FEELINGS TOWARDS THE PEOPLE THEY HAVE NO DESIRE TO GOVERN IN *SSR/SLR*[?] RULE. WE HEAR OCCASIONALLY IN MISREPRESENTATIONS OF THE REMARKS OF THE PEOPLE IT TAUGHT ALL OVER THESE *PARTS*[?] THAT THE GOVERNMENT AND PEOPLE OF THIS UNITED STATES ARE NOT THEIR FRIENDS BUT ARE VIRTUALLY A FOREIGN POWER AND THEY WANT TO PERSECUTE THEM SIMPLY FOR THEIR RELIGION ^[8] THEY KNOW FULL WELL THAT THE MASS OF THIS PEOPLE WERE MOSTLY FOREIGNERS THAT GOVERNMENT OF THE UNITED STATES ARE DESIROUS ONLY FOR THE REIGN OF PEACE THE POWER OF THE LEADERS WILL BE BROKEN AND MANY BY THE FAIR ENFORCEMENT OF THE LAW WILL FIND THEMSELVES IN FELONS' CELLS. THE IDEA OF PERSECUTION IS PREPOSTEROUS NOBODY DESIRES ANYTHING OF THE KIND AND ANY FEDERAL OFFICIAL WHO WOULD FAVOR ANY SUCH A THING¹⁶ DESIRE *WHEN*[?] THE AUTHORITY OF THE GOVERNMENT AND SHOULD BE PULLED FROM HIS AUTHORITY AND [*space*] HAVE NOT HAD ANY DESIRE AT ANY TIME AND HARASS ANY ONE TO OR PUNISH ANY ONE IF THEY ARE NOT GUILTY AND THEY

16. Included in Rogerson Shorthand Book 12 is a loose page written in longhand that replicates some of the same material. The page fits at the end of Baskin's closing argument. See Trial matrix, p. 3052 fn. 571.

CONSIDER IT AFFIRM NO MAN WILL EVER BE SENTENCED IN THIS COURT AT ANY TIME UNLESS THE COURT AS WELL AS THE JURY SHALL BE FIRMLY CONVINCED OF HIS GUILT AND THIS RULE I HAVE ALWAYS ACTED UPON [space] I HAVE BEEN ON THE BENCH FOR 8 YEARS AND THIS RULE HAS ALWAYS BEEN FOLLOWED BY ME. IF HE IS NOT PROVEN GUILTY OF A PARTICULAR CHARGE THE COURT WILL NOT HESITATE TO SET THE VERDICT ASIDE. THE COURT CAN NOT BE AFFECTED WITH PRINCIPLES OR BIAS OR BY ANY OUTSIDE POWER SO GENTLEMEN SHOULD YOU DISREGARD ALL PRINCIPLES AND BIAS. THINK YOU CAN BE SWAYED BY ANY DEFENDANT OR *MATTER IN/YOUR OWN*[?] JUDGMENT AN ASSURANCE UNDER THE SOLEMN OATH YOU ~~MADE~~ HAVE LEST YOU COMMENCE A JUDGMENT. NO MATTER WHETHER IT STRIKES FRIEND OR FOE. IT IS NOW AND HAS BEEN FOR YEARS SAID THAT THE BULK OF THE PEOPLE OF THIS TERRITORY *NO/KNOW*[?] NATURAL FEELING OF INDEPENDENCE AND HAVE VIOLATED EVERY PRINCIPLE OF HONOR AND JUSTICE DO YOU GENTLEMEN PERHAPS HAVE AS MUCH PERSONAL INDEPENDENCE AND MANHOOD AS ELSEWHERE IN AMERICA. PAY —[?] CAREFUL HEED TO YOUR OATH UNDER SUCH OATH YOU WILL WITH THE MOST SPEEDY MANNER KNOWN TO LAW AND THIS OFT REPEATED CHARGE IN DISCHARGE YOUR DUTY YOU MUST KNOW NEITHER FRIEND NOR ENEMY NOR BE CONTROLLED BY

FEAR FAVOR OR AFFECTION. IF YOU DO AS I SUGGEST YOU WILL GO A LONG WAY TOWARD PREVENTING ANY FURTHER ALLEGATIONS IN CONGRESS AND IF YOU DO NOT DO WHAT YOUR OATH REQUIRES THE PUBLIC WILL NOTE IT AND EACH STEP WILL GO FURTHER FURTHER ON TO MORE RIGID ENFORCEMENT OF THE LAWS. IF THE GRAND JURORS AS NOW CONSTITUTED BY LAW DO NOT SHOW PROPER REGARD THOUGH ~~TO~~ THEIR DUTY THAT THE LAWS WILL BE ENFORCED. A WHOLE PEOPLE SHOULD NOT BE WILLFULLY BLIND TO THESE FACTS. I URGE THIS MATTER UPON YOU [space] THAT THERE IS STILL A WIDE SPREAD HOSTILITY TO FEDERAL RULE IN THIS TERRITORY AND TO A PEOPLE GENERALLY DELUDED AND DECEIVED BY THE WILD MISREPRESENTATIONS OF OTHERS AND [space] ~~IF/FOR~~ YOU ARE DELIBERATIONS ~~YET~~ YOU ARE CONSIDER OFFENSES MADE AS I STATED AGAINST THE UNITED STATES AND AGAINST THE TERRITORY IN ALL THE TERRITORIES IN THE DISTRICT COURTS HAVE A DOUBLE POWER ~~THEY ARE~~ REQUIRED TO ENFORCE THE LAWS OF THE FEDERAL GOVERNMENT AND OF THE TERRITORY BOTH HENCE YOUR DUTIES COVER BOTH OF THESE GROUNDS IN THE STATE AND DUTIES —~~?~~ IN THE TERRITORY THEY LABOR TOGETHER TERRITORIAL LAWS BOTH. AS TO ~~GOVERN~~ INFLUENCE OF THE LAWS OF THE TERRITORY ~~NOT SET~~ ~~THE WAY~~ OR

PTNTD/PATENTED[?]. THE TEMPER OF THE PUBLIC LAWS BELONGS TO THE GOVERNMENT AND NO ONE SHOULD SUPPLY THIS TEMPER WITHOUT POSITION. [space] ^{19]} SET MISSION IN THIS DISTRICT NOTWITHSTANDING THE OATH MIGHT HAVE BEEN TAKEN AT SALT LAKE CITY [space] WHEREVER THE PARTIES ARE ARRESTED HE CAN BE INDICTED AND TRIED UNDER UNITED STATES LAWS MEN THAT THUS SECURED NUMEROUS PARCELS OF LAND WHEN THE LAW SAYS THEY SHALL ONLY HAVE ONE. THE MEN WHO ACT FOR THE INSTRUMENTS OF SUCH LAND ROBBERS ARE GUILTY OF PERJURY. *MLS*[?] MUST BE SECURELY KEPT PRIVATE AND THERE MUST BE THE MOST PERFECT SECURITY THEREIN. PRIVACY AND SECURITY CAN ONLY BE SECURED BY A FIRM PURPOSE AND DETERMINATION TO ENFORCE THE LAWS.

“POLYGAMY OR BIGAMY WILL REQUIRE YOUR ATTENTION. THIS IS A CRIME THAT IS VERY PREVALENT IN THIS DISTRICT AND THROUGHOUT THE TERRITORY. ITS POLLUTING EFFECTS ARE SEEN ON EVERY SIDE AND IN EVERY COMMUNITY. THE CHILDREN OF SAID MARRIAGES ARE GENERALLY GROWING UP AS WILD ANIMALS, WITHOUT TRAINING, INSTRUCTION, OR PARENTAL CARE. IT IS OF COURSE UTTERLY IMPOSSIBLE FOR ONE FATHER, EXCEPT IN ISOLATED CASES, TO LOOK AFTER THE TRAINING OF CHILDREN SEPARATED INTO VARIOUS FAMILIES, AND THERE IS GENERALLY LITTLE OR NO

POLYGAMY IN EVERY FACE OF ITS CHARACTER IS DEGRADING AND BEASTLY IT DRIVES MAN DOWN TO THE LEVEL OF THE BRUTES AND WOMAN IS PLACED IN THE SAME SOCIAL POSITION AS WE FIND AMONG THE SAVAGES OF THE FOREST AND AMONG SOME PARTLY *CIVILIZED*[?] RACES AND LOOKED UPON AS A DRUDGE AND A SLAVE

SHE NEVER HEARS THE ENDEARING NAME OF WIFE
THE NAME OF
MY WOMAN IS HEARD SHE KNOWS OF CONNUBIAL LOVING THE CHARMS OF LOVE ARE STRANGERS TO HER NO OTHER SECTION OF THE WHOLE UNITED STATES IS FILLED WITH PEOPLE AS NEGLIGENT OF THEIR CHILDREN AND THEIR FAMILIES. VICE AND DEGRADATION EVERYWHERE MARKS THE FOOTSTEPS OF THIS LOATHSOME CRIME AND IT IS A CRIME YOU KNOW IS PRACTICED ALL AROUND YOU

AND THE LEADERS BEING NEARLY ALL GUILTY OF THIS CRIME AND PERSISTENTLY THEIR DELUDED POWERS TO COMMIT THE SAME DEGRADING OFFENSE YET THESE VERY SAME MORMONS WILL TELL THE WORLD WHEN BROUGHT INTO COURT THAT THEY ARE LAW

ATTEMPT TO LOOK AFTER THEM. THE CONSEQUENCES MAY BE SEEN ALL OVER THE TERRITORY POLYGAMY, IN EVERY PHASE OF ITS CHARACTER, IS DEGRADING AND BEASTLY. IT DRAGS MAN DOWN TO THE LEVEL OF THE BEAST. WOMAN IS PLACED IN THE SAME SOCIAL POSITION.

SHE IS LOOKED UPON AS A DRUDGE AND SLAVE, FIT ONLY TO PERFORM THE HARDEST WORK TO GRATIFY THE SLAVISH PASSIONS OF THOSE TO WHOM SHE BELIEVES HERSELF MARRIED. SHE NEVER HEARS THE ENDEARING NAME OF WIFE, BUT WE ALWAYS HEAR HER CHEERLESS TITLE OF 'MY WOMAN.' SHE KNOWS NOTHING OF LOVE, AND THE CHARMS OF HOME ARE STRANGERS TO HER. NO SECTION IN THE WHOLE UNITED STATES IS FILLED WITH PEOPLE SO NEGLIGENT AS FAMILIES IN UTAH. VICE IS VERY PREVALENT, AND GENERAL DEGRADATION EVERYWHERE MARKS THE FOOTSTEPS OF THIS LOATHSOME CRIME. IT IS A CRIME THAT EACH OF YOU KNOW IS PRACTISED ALL AROUND YOU. EVERY COMMUNITY HAS NUMEROUS PERSONS LIVING IN POLYGAMY, AND THE LEADERS ARE NEARLY ALL GUILTY OF THIS CRIME, PERSISTENTLY URGING THEIR DELUDED FOLLOWERS IN COMMITTING THE SAME DEGRADING OFFENSE. YET THESE VERY SAME MEN WILL TELL THE WORLD THAT THEY ARE LAW

<p>ABIDING CITIZENS AND TESTIFY TO THE COURT THAT THEY ARE LAW ABIDING CITIZENS AND THE MEN DON'T HESITATE TO PERJURE THEMSELVES IN THIS OFFENSE THERE WAS ONE MAN ON THE GRAND JURY AT THE LAST TERM OF COURT HE THAT HE HAD NO CONSCIOUS SCRUPLES TO PUNISH ANY PERSON FOR THE CRIME OF POLYGAMY [space] YET THIS MAN HAS SINCE GONE INTO POLYGAMY. THERE ARE SOME MEN IN POLYGAMY WHOM I WOULD NOT LIKE TO SEE PUNISHED. [space] IT IS NO PLEASURE TO SEE MEN PUNISHED FOR ANY OFFENSE. AND IF COMMITTED THAT THIS WHOLE SYSTEM OF POLYGAMY SHALL CEASE OF ITS OWN ACCORD. IN PUTTING DOWN THE PRACTICE IT IS NOT EXPECTED THAT EVERY MAN WHO IS GUILTY SHALL BE PUNISHED BUT IT IS EXPECTED THAT THE LEADERS SHALL BE BROUGHT TO JUSTICE. [space] SO FAR AS AS MOST INTELLIGENT ARE CONCERNED THIS IS ALL NONSENSE.</p> <p>ELEVATED TO A BETTER CIVILIZATION [space] SHED THIS THE DAY IS RAPIDLY APPROACHING</p> <p>WHEN THESE HIDEOUS MONSTERS WILL BE PUT OUT OF</p>	<p>ABIDING CITIZENS. SUCH FALSEHOODS ARE BUT TOO COMMON, AND MEN DO NOT EVEN HESITATE SOMETIMES TO PERJURE THEMSELVES IN REGARD TO THIS OFFENSE.</p> <p>THERE ARE SOME MEN IN POLYGAMY THAT I SHOULD NOT LIKE TO SEE PUNISHED. I REFER TO A FEW IN WHICH AN HONEST AND PERFECT SEPARATION HAS TAKEN PLACE BETWEEN THE PARTIES, AND I BELIEVE ALL GOOD PEOPLE WOULD RATHER THAT NONE SHOULD BE PUNISHED IF THEY WILL BUT CUT LOOSE FROM THE SYSTEM. SOME TALK ABOUT POLYGAMY AS A PART OF THEIR RELIGION.</p> <p>SO FAR AS THE MORE INTELLIGENT ARE CONCERNED, THIS IS THE SILLIEST NONSENSE. THEY DO NOT THINK IT TO BE SO. THEY USED TO CLAIM THAT BLOOD ATONEMENT WAS PART OF THEIR RELIGION, BUT THE ELEVATING INFLUENCE OF A BETTER CIVILIZATION SHOWED THIS TO BE SANCTIONING COLD-BLOODED MURDER. IT IS NOW ALMOST IF NOT ENTIRELY DEAD. SO WILL THIS TWIN CRIME, POLYGAMY, SOON LOOK TO THE EYES OF THE NOW DELUDED MASSES. THE DAY IS FAST APPROACHING WHEN THIS HIDEOUS MONSTER WILL BE PUT OUT OF</p>
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<p>SIGHT AS A THING TOO LOATHSOME FOR TO[?] PUBLIC VIEW. THE LEADERS FREQUENTLY BOAST THAT THEY CAN GO FREE BECAUSE THEY WENT INTO POLYGAMY BEFORE LAW OF 62. [space] IF THE LAWS BE NOT RESPECTED FURTHER[?] TYRANNY OR ANARCHY WILL BE THE RESULT WHERE THERE IS NO ORDER POWER FOR THE LEGAL AUTHORITY[?]. THE COMMUNITY WHICH WILL ALLOW A COMMON DISREGARD FOR LAW WILL SOON FIND THAT THEIR LEADERS HAVE MADE SLAVES OF THEM AND THEY WILL BE RULED BY A ROD OF IRON. <IT IS PUTTING> AND UTAH WILL THEN STAND LIKE ANY OTHER DECENT TERRITORY WITH CLEAN HANDS AND A PURE HEART. [space] ^[10] NOW AS TO TERRITORIAL OFFENDERS AMONGST THE FIRST OFFENSES AGAINST THE LIVES OR INDIVIDUALS SUCH AS MURDER MANSLAUGHTER ETC. I DESIRE TO CALL YOUR SPECIAL ATTENTION TO JOHN[?] HLV/HRV/HRTV[?] WHO WAS KILLED NEAR THIS CITY A YEAR AGO LAST FALL. IT WAS A COLD BLOODED AND COWARDLY MURDER AND THE ASSASSINS CONSISTED OF SOME HALF DOZEN PERSONS AT LEAST AND EVERY EFFORT TO DISCOVER THE PERPETRATORS OF SUCH DEED HAVE BEEN FRUITLESS THE PERPETRATORS WOULD KNOW NO DOUBT RESIDENTS OF THIS COMMUNITY AND THERE ARE MEN NOW HERE WHO SHOULD KNOW AND DIVULGE THE WHOLE MATTER AND THEIR OWN SAFETY DEPENDS THAT THEY SHOULD TELL THE</p>	<p>SIGHT AS A THING TOO LOATHSOME FOR PUBLIC VIEW.</p>
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WHOLE MATTER. IT MAY BE THAT SOME MATTERS RESPECTING THE MOUNTAIN MEADOW MASSACRE WILL BE CALLED TO YOUR SPECIAL ATTENTION AND IF YOU KNOW ANYTHING OF THIS BLOODY AND INHUMAN BUTCHERY YOU SHOULD MAKE IT KNOWN.

SOME YOUNG MEN WENT INTO IT WITH THE FEAR THAT THEIR LIVES WERE IN DANGER IF THEY DID NOT GO IN IT.

LEADERS AND ACTIVE MEN OF THIS CRIME SHOULD BE PUNISHED TO THE UTMOST EXTENT OF THE LAW. [space]

YOU SHOULD ASK THEM TO DO SO AND IF THEY DO THEY WILL CLEAN THEIR OWN CONSCIENCES AND HELP TO BRING TO JUSTICE THE LEADERS AND SAVE THE WHOLE PEOPLE THE CHARGE OF PARTICIPATION AND CONNIVANCE AT THIS TIME. [space] SMLT[?] DESIGN[?] AND ADULTERY ALSO LASCIVIOUS COHABITATION. READ THE STATUTE RESPECT LASCIVIOUS COHABITATION LAWS OF THE LAND

“SOME MATTERS RESPECTING THE MOUNTAIN MEADOWS MASSACRE WILL BE CALLED TO YOUR ATTENTION. IF SO, OR IF EITHER OF YOU KNOW ANYTHING OF THIS BLOODY AND INHUMAN BUTCHERY, DIVULGE IT ALL. IT IS YOUR SWORN DUTY TO DO SO. IT IS NOT EXPECTED THAT ALL WHO WERE ENGAGED IN THAT BUTCHERY WILL BE PUNISHED. SOME VERY YOUNG MEN WENT INTO IT, NO DOUBT WITH FEAR THAT THEIR OWN LIVES WOULD BE TAKEN. THIS IS SAID TO HAVE BEEN THE CASE IN NUMEROUS INSTANCES. YOUNG MEN NOT OUT OF THEIR TEENS WERE FORCED INTO PARTICIPATION IN THIS HORRIBLE DEED, A DEED THE VERY THOUGHT OF WHICH MAKES HUMAN BLOOD TO CURDLE ON ACCOUNT OF ITS ATROCITY. THE LEADERS AND ACTIVE MEN IN THIS CRIME SHOULD BE PUNISHED TO THE UTMOST EXTENT OF THE LAW. THOSE WHO WERE THEN MERE BOYS AND FORCED INTO IT SHOULD NOW COME FORTH AND, AS LAW-ABIDING MEN, TELL YOU THE WHOLE CASE. YOU SHOULD ASK THEM TO DO SO. BY SO DOING THEY WOULD CLEAR THEIR OWN CONSCIENCES, HELP TO BRING TO JUSTICE THE LEADERS, AND SAVE THE WHOLE PEOPLE FROM THE CHARGE OF PARTICIPATION OF, OR CONNIVANCE IN, THIS TERRIBLE CRIME.”

<p>DO NOT RECOGNIZE ANY MARRIAGE WHEN <i>THERE IS ONE</i>[?]. YOU HAVE SWORN NOT TO GO ABOUT YOUR OWN NOTIONS OF THE LAW AND IF THE COURT IS MISTAKEN IN ANY POINT TAKEN <i>WILL</i>[?] BE CORRECTED IN THAT MATTER. THEN YOUR DUTIES LOOK —/<i>YES</i>[?] TO INVESTIGATE A CASE OF SEDUCTION. GAMBLING AND GAMBLING AND HOUSES. LARCENY ROBBERY EMBEZZLEMENT ETC., ANY SUCH CHARACTERS SHOULD BE BROUGHT TO JUSTICE IMMEDIATELY. [<i>space</i>] THERE MUST BE GOOD SEMBLANCE OF SAFETY TO LIFE AND PROPERTY OR THEY ARE UNFIT TO <i>FORM</i>[?] GOVERNMENT [<i>space</i>] FORGERY BRIBERY ETC. WHEN YOU MEET IN THE GRAND JURY ROOM ELECT ONE OF YOUR NUMBER CLERK OF THE WHOLE PROCEEDINGS YOUR OATH REQUIRES ABSOLUTE SECRECY ON YOUR PART AND ANY MEMBER WHO DIVULGES ANYTHING SHOULD BE INDICTED BY YOU NO COURT WILL ALLOW YOU TO DIVULGE ANY THING IN RELATION TO THE CASE BEFORE YOU IN THE COURT. SHOULD ANY PERSON OUTSIDE OF THE GRAND JURY TRY TO INFLUENCE YOU IN ANY MATTER BRING THAT UP BEFORE THE COURT AND THAT PARTY WILL BE DEALT WITH. YOU WILL NOT ALLOW ANY ONE BE PRESENT <i>HEAR</i>[?] <i>IN/ANY</i>[?]. NOR SHALL ANY ONE BE PRESENT AT ANY TIME WHEN ANY VOTING IS TAKEN. [<i>space</i>] PARTIES WHO BEEN REQUIRING THEM TO APPEAR AT THIS TIME THEY OUGHT TO BE INDICTED SO THEY BE NOT <i>HELD</i>[?]. —[?] I REFERRED POLICIES OF JUDGE</p>	
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<p>MCKEAN ADOPTED^{'''}. IN[?] THE THIRD DISTRICT WAS A GOOD ONE. [space] PRAY AS INDEPENDENT AND FEARLESS FREE MEN YOU WILL DISCHARGE YOUR DUTY AND GIVE ≤TO THE WORLD≥ THE NOTION THAT IN UTAH THE LAWS WILL BE ENFORCED. [space]</p>	
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RS

STOKES TOOK OATH TOOK CHARGE OF GRAND JURORS. [space] ^[11] BY THE PROSECUTOR [space] WHOEVER[?] HAD EXITED TO THE JAIL TO SHOW CAUSE WHY THEY PERMITTED WILLIAM HD TO BE RELEASED THIS MORNING THE SHERIFF IS IN THE ROOM [space] BY THE SHERIFF I BROUGHT BY MR. HUNT TO MAKE THIS STATEMENT [space] THE JAIL IS USED IN COMMON FOR THE COUNTY PRISONERS BY THE UNITED STATES MARSHALS FOR KEEPING HIS PRISONERS ALSO. SHERIFF SENT HERE ALSO AND GOT A COAT FOR HIM YESTERDAY AND SINCE THAT TIME HE KNOWS NOTHING ABOUT IT. HE HAS NOT BEEN TO THE JAIL SINCE HE WENT TO THE JAIL LAST EVENING. IT IS USED IN COMMON FOR KEEPING TERRITORIAL AND COUNTY PRISONERS. [space] BY THE COURT. THEY HAD BETTER GET ANOTHER PLACE TO KEEP THEM.¹⁷ [space] BY PROSECUTION I WOULD LIKE TO KNOW WHO DISCHARGED HIM? BY THE COURT [space] THE COURT DIDN'T CONVEY. [space] BY THE PRATT/FRAT[?] DID YOU GO TO JAIL THIS MORNING AFTER THE PRISONER AND/I[?] DID NOT FIND HIM THERE. I WAS SENT FOR OTHER/THEIR[?] ≤2≥ PRISONERS THERE AND THEY MADE A STATEMENT THAT MR. DAME HAD GONE THAT 3 OF HIS WIVES CAME FOR HIM AND HE WENT SAID HE WAS OVER TO SOME HOUSE DIDN'T KNOW WHAT HOUSE IT WAS [space] STARFIELD/STRFLT[?] TOOK THEM AND GAVE EVIDENCE. BY PROSECUTION WAS IN JAIL LAST NIGHT WHO LET HIM OUT THIS MORNING [space] THE SON OF THE JAILER CAME AND TOLD HIM HIS BREAKFAST WAS READY AND 3 LADIES CAME AND TOOK HIM OVER TO HIS BREAKFAST. SON CAME I LEFT BEFORE HE CAME BACK. [space] BY THE COURT HOW DID HE GET THE KEY I DO NOT KNOW MR. JONES BILLETS THE PRISONERS. [space] BY THE COURT TO MAXWELL DOES HE BOARD YOUR PRISONER I DO NOT KNOW SIR. [space] BY THE COURT MR. HUNT I DISCHARGED. BY PROSECUTORS I MOTION MR. HUNT BE BROUGHT TO COURT. [space] BY MAXWELL [space] BY LOPER I TAKE AN EXCEPTION TO YOUR RULING ON THE DEMURRER LOPER VS THOMAS ROMNEY. PROSECUTORS MR. DAME IS HERE AND I SHOULD LIKE HIM TO PLEAD. BY

17. "TH" apparently added later; original shorthand possibly read "HIM" or "EM".

THE COURT TO MR. DAME ARE YOU READY TO PLEAD¹⁸ MCFARLANE SAID I SPEAK FOR MR. DAME [space] WE ARE NOT READY TO PLEAD AND WON'T BE TILL MONDAY [space] BY THE COURT TO PROSECUTION ANY OBJECTION? IF THE COUNSEL ARE HERE I SHOULD LIKE MR. DAME TO PLEAD THIS WEEK. BY THE PROSECUTORS RESPECTING MEALS BEING CONVEYED TO PRISONERS IN THE JAIL, ALSO AS TO NUMBERS OF SHERIFFS DEPUTY SHERIFFS AND AS TO OFFICERS BEING SWORN SO PRISONERS MAY BE KEPT IN LARGER LOCALITY [space] AND I OBJECT TO THEIR BEING TAKEN OUT OF ANY PRISON. [space] BY THE COURT, NO ONE NOR OFFICER HAS ANY RIGHT TO LET OUT THE PRISONERS IN CHARGE OF AN OTHER OFFICER EXCEPT BY PERMISSION OR ORDER. NO RIGHT TO TAKE PRISONER OUT EXCEPT BY PERMISSION OF THE PARTY WHO BRINGS HIM THERE. [space] BY HUNT IF ANY STATEMENT IS WANTED FROM ME OR ANY OF THE WITNESSES ON BEHALF OF THIS MATTER I SHOULD MAKE IT WILLINGLY. [space]

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^[5]¹⁹ VERY MANY OF THEM ARE IN COURT AND UNTIL HE SHOWS UNTIL PROSECUTION SHOW BY *NOTICING*[?] HERE THAT THEY ARE RELYING ON OTHER WITNESSES GIVING THE NAMES AND THE TESTIMONY THEY HAVE NOT A RIGHT TO USE THIS AS A CASE. THIS GREAT AMERICAN NATION THE UNITED STATES THE PEOPLE HAVE NOT MONEY TO PAY THE PROSECUTION. [space] WE UNDERSTAND VERY WELL THAT THE MACHINERY IN THIS COURT IS IN FULL MOTION IN GOOD ORDER IS ALL ALL POWERFUL AND SUBPOENAS THAT GO FROM THIS COURT COMPEL WITNESSES TO ATTEND HERE COMPEL JURORS MONEY OR NO MONEY THEY HAVE NO RIGHT TO REFUSE AND CERTAIN IT IS THAT THESE UNITED STATES OF AMERICA THAT WAS ABLE TO BORROW MONEY AND CARRY ON THIS GREAT WAR OF THE REBELLION HAVE CERTAINLY CREDIT ENOUGH LEFT TO PROCURE THE ATTENDANCE OF WITNESSES TO THIS DISTRICT OF LITTLE UTAH TERRITORY. IF THEY HAVE NOT THEY HAVE NOT AS MUCH CREDIT AS I HAVE. AT THE TERMINATION OF SPICER AND DURING HIS REMARKS LEE WEPT LOOKED AROUND. [space]-**BISHOP**²⁰ THE COURT PLEASE IN THIS CASE WE RELY UPON THE CERTAINTY OF THE LAW AND CLAIM THAT THE RULE BEING CERTAIN HAVING BEEN ESTABLISHED FOR A NUMBER OF YEARS. THOSE RULES THAT CONTROL MOTIONS OF THIS KIND. WE COME BEFORE THE COURT WITH A GREAT DEAL OF CONFIDENCE ASKING THAT THE RULE OF LAW AS WE UNDERSTAND IT BE ENFORCED IN THIS INSTANCE AND SAY THAT THE GOVERNMENT THE REPRESENTATIVE OF THE PEOPLE ON THIS OCCASION HAS NOT PLACED HIMSELF WITHIN THE RULE THAT HE HAS NOT AGREED TO OUR JUDGMENT AFTER CAREFUL EXAMINATION OF THE SUBJECT MADE THE

18. In the left margin next to MacFarlane's name: {**W H DAME**}i COUNSEL FOR DAME.

19. Apparently Spicer is speaking, see the Rogerson note at the end of the speech.

20. In left margin with vertical line from name to bottom of page.

STATEMENT SHOWING SUCH A CONDITION OF AFFAIRS AS JUSTIFIES THE PEOPLE IN ASKING THAT THIS CASE BE FURTHER POSTPONED AND THE DEFENDANT RETAINED IN CUSTODY. THE GOVERNMENT ASKS A CONTINUANCE UPON FOLLOWING GROUNDS. THAT I CONSIDER WHERE THE APPLICATION FOR A DELAY AS I SHALL TRY TO SHOW TO YOUR HONOR BUT THE SECOND PAPER FILED THIS MORNING IS NOT SUCH A DOCUMENT \leq THAT THIS COURT \geq HAS A RIGHT TO CONSIDER. FIRST DOCUMENT FILED THEY CLAIM THERE ARE LARGE NUMBER THAT HAVE NOT BEEN SERVED WITH THE PROCESS OF THIS COURT. NEXT UNITED STATES MARSHAL HAS TRAVELED BEEN GREAT EXPENSE PURPOSE OF SERVING SUBPOENAS AND SAID WITNESSES ARE MATERIAL AND IMPORTANT. WITHOUT SHOWING IN WAY THE TESTIMONY WOULD BE MATERIAL OR IN WHAT RESPECT IT WOULD BE IMPORTANT IN THE TRIAL OF THIS CASE. THAT THE UNITED STATES AND TERRITORIAL GOVERNMENT ARE BOTH TOO IMPECUNIOUS [space] AND DECIDE THAT THE GOVERNMENTS OF THE UNITED STATES AND TERRITORY OF UTAH HAVE THE RIGHT IN A PROCEEDING OF THIS KIND TO COME INTO COURT AND PLEAD [4 lines blank] ^{16/21} THAT THEY ARE BEING AGREED TO. IF DEFENDANT WAS NOT ARRAIGNED AT THE FIRST TERM OF COURT THAT IS CERTAINLY NOT THE DEFENDANT'S FAULT [space] BECAUSE A DEFENDANT INCARCERATED IN JAIL IS NEVER EXPECTED TO *HIM/COME*[?] INTO COURT OR DO ANYTHING OF THE KIND NOT GOT ANY COUNT TO CHARGE AGAINST HIM. IT IS THEIR DUTY TO BRING HIM AT THE EARLIEST PRACTICAL OPPORTUNITY. EARLIEST MOMENT POSSIBLE. THEN THE DEFENDANT HAVING BEEN READY FOR TRIAL AND STILL BEING READY FOR TRIAL WE CLAIM THAT THE PROSECUTION IN THIS CASE MUST SHOW THE SAME STATE OF FACTS TO ENTITLE THEM TO A CONTINUANCE THAT WOULD BE NECESSARY TO SHOW IN A CIVIL PROCEEDING. RULE IS CERTAINLY WELL SETTLED ON THIS CODE BORROWED FROM CALIFORNIA BY THE TERRITORY OF UTAH AND THE RULE AS I UNDERSTAND BEING THE SAME IN ALL THEM THE RULE DOES NOT DIFFER UPON APPLICATION UPON THE CONTINUANCE OF A CIVIL OR CRIMINAL CASE. THERE MUST BE SOMETHING SHOWN BY THE PARTY MOVING FOR A CONTINUANCE THAT IT IS IMPOSSIBLE FOR THE PARTY TO PROCEED TO TRIAL OR GREAT INJUSTICE WILL BE DONE. [space] WE CLAIM THAT THE APPLICATION ON THE PART OF THE GOVERNMENT IN THIS CASE IS INSUFFICIENT. THAT THE MARSHAL HAS NOT USED DUE DILIGENCE. IF THE MARSHAL HAS TRAVELED THE HUNDREDS OF MILE HE SAYS HE HAS TRAVELED HOW CAN IT BE CLAIMED THAT THE WITNESSES HAVE NOT BEEN FOUND. THIS STATEMENT FAILS TO SHOW ANY REASON WHY MARSHAL AND SERVED HIS PROCESS UPON THEM. IF THE PARTIES HAVE BEEN SERVED WITH THE PROCESS OF THIS COURT CAN THE GENTLEMAN CLAIM [space] CAN ANY MAN CLAIM THAT THEY ARE EXCUSED FROM ATTENDING BECAUSE GOVERNMENT IS POOR THERE IS NO PROVISION OF LAW THAT EXCUSES A PARTY FROM ATTENDING TO TESTIFY IN A CRIMINAL PROCEEDING

21. Vertical wiggly line in left column, a continuation of line from page 5.

WITHOUT MONEY OR EXCUSED FROM NOT COMING BECAUSE THEIR FEES ARE NOT PAID. IT IS THE DUTY OF EVERY CITIZEN TO AID IN THE DISCOVERY AND PROSECUTION OF CRIME IT IS A DUTY THAT A CITIZEN OWES TO HIS NATION TO OBEY ITS EVERY PROCESS TO GO TO COURT WHEN CALLED UPON [space] RENDER HIS SERVICE FOR THE PURPOSE OF DISCOVERING AND PROSECUTING THOSE THAT VIOLATE THE LAW. [space] THERE IS NO REWARD HELD OUT TO MEN FOR DOING THEIR DUTY IT IS NOT THE POLICY OF OUR GOVERNMENT NOR IS IT THE POLICY OF ANY CIVILIZED GOVERNMENT TO GIVE REWARDS FOR —[?] DEEDS. BUT IS THE POLICY OF THOSE TO PUNISH THOSE WHO VIOLATE THE LAW [space] [pages 7 and 8 are not extant]^[9] THEN THE LEGAL PRESUMPTION IS THERE ARE MANY PEOPLE THAT CAN TESTIFY TO THE SAME EVIDENCE/WORDS[?] THAT HE EXPECTS THOSE COWARDLY WITNESSES THAT ARE LURKING HIDING AWAY MANY WITNESSES TO TESTIFY TO THE SAME FACTS THAT HE EXPECTS TO PROVE BY THEM. WITNESSES THAT ARE AFRAID TO ENTER A COURT OF JUSTICE AFRAID OF THE LAWS ARE SKULKING HIDING LIKE THOSE WITNESSES ARE SAID TO BE AFRAID TO TESTIFY UNLESS THEY ARE PAID FOR IT THAT IT WILL REQUIRE A PECULIAR JURY FIND A VERDICT BASED UPON THE TESTIMONY OF SUCH WORTHLESS AND LAW BREAKING CHARACTERS. [space] THE COURT PLEASE NOW AS TO THE SECOND STATEMENT CLAIM THEN THAT THE FIRST STATEMENT FILED IS THE SAME AS AN AFFIDAVIT FOR A CONTINUANCE *THAT AS THIS*[?] IS BEING THE LAW THAT AN AFFIDAVIT FOR A CONTINUANCE IS NOT SUBJECT TO AN AMENDMENT. THAT THE PARTY FILING THIS MUST MAKE IT PERFECT IN THE FIRST INSTANCE AND IN NO CASE UNDER NO CIRCUMSTANCES WILL A COURT PERMIT THE PARTIES TO AMEND THIS AFFIDAVIT AFTER THE MOTION HAS BEEN RESISTED. THEN THIS AMENDED STATEMENT COMES IN AFTER THE FIRST MOTION HAS BEEN MADE FOR THE CONTINUANCE OF THE TRIAL BISHOP EXPLAINED AS TO THE DOUBT IN FAVOR OF DEFENDANT. HE READ SECTION 18 PAGE 65 FROM THE STATUTES OF UTAH INDICTMENT MUST BE MADE IN THE NAME OF THE PEOPLE MUST STATE THE NAMES OF THE OFFENDER AND OFFENSE MANNER HE COMMITTED IT AND AS NEAR AS MAY BE THE TIME HE COMMITTED IT AND BE PRESENTED TO THE COURT WHO MAY CORRECT MISTAKES THAT DON'T PREJUDICE THE TRIAL [space] SECTION 26 IT IS PECULIAR STATUTE OF LIMITATION IF IT MAY BE SO CALLED PROSECUTION FOR THE OFFENSE MUST BE COMMENCED SOON AFTER THE OFFENSE HAS BEEN COMMITTED. IF IT BE NECESSARY THAT THE NAMES OF THE WITNESSES MUST BE PLACED UPON THE INDICTMENT NOT SIMPLY THE WITNESSES THAT ARE EXAMINED BEFORE THE GRAND JURY BUT THE NAMES OF THE REQUIRED WITNESSES MUST BE PLACED UPON THE BACK OF THE INDICTMENT [space]^[10] THEREFORE WE *CLAIM*[?] THAT THE PROSECUTION IN THIS CASE MUST PLACE THE NAME OF EVERY IMPORTANT WITNESS ON THIS INDICTMENT. [space] IN REGARD TO DILIGENCE THAT MUST BE USED APPLICATION FOR CONTINUANCE, ASK LEAVE TO REFER TO PAGE 403 PEOPLE AGAINST BAKER FIRST

CALIFORNIA. APPEAL FROM THE DISTRICT COURT FROM THE COUNTY SAN RAMON[?] OPINION OF THE SUPREME COURT. OPINION BY COURT WE CLAIM IN THIS CASE THAT THEY MUST SET OUT THE MATERIALITY WHAT THE PARTIES WILL TESTIFY TO. [space] WILL READ FROM 24TH CALIFORNIA PAGE 26 PEOPLE AGAINST WILLIAMS. [space] IN THIS CASE THERE IS NOTHING SET FORTH WHY THE MARSHAL HAS NOT SERVED THE SUBPOENAS. THEY COULD NOT DO SO LEGALLY BECAUSE THE PAPER ONCE/ONES[?] IN THEIR POSSESSION THEN IT BECOMES THEIR DUTY TO SERVE THAT PAPER AT ALL EXPENSE OF TIME TROUBLE AND MONEY. [space] IF THEY ARE NOT WILLING TO SERVE THE PROCESS ON THESE PARTIES RESIDENTS OF YOUR JUDICIAL DISTRICT AND CALL UPON THE PEOPLE OF YOUR DISTRICT TO AID IN SERVING PROCESS OF THE COURT AND FERRETING OUT THOSE UNWILLING WITNESSES THEY MUST MAKE A GREATER SHOWING THAN THEY HAVE IN THIS CASE TO ENTITLE THEM A CONTINUANCE. [space] 29 CALIFORNIA PAGE 562 CASE OF THE PEOPLE AGAINST WILLIAM JOSSON = POINT IN THIS CASE IS THAT THEY MUST SHOW DUE DILIGENCE AND THAT WITNESSES CAN'T BE OBTAINED. IF LEGAL SUBPOENAS HAD BEEN SERVED ON WITNESSES THEY WOULD BE IN ATTENDANCE. [space] PEOPLE AGAINST FRANCIER[?] 38 CALIFORNIA PAGE 183 READ FROM THE PAGE 185. OPINION BY CROCKETT COMMENCES PAGE 185. DEFENDANT INDICTED F/FOR/IF[?] ONE OLIVER[?] 1856. TRIAL COMMENCED ON 28TH MAY TRIAL COMMENCED DEFENDANT MOVED FOR CONTINUANCE HE HAS NO AFFIDAVIT THAT HIS IMPORTANT ABSENT WITNESS RESIDING IN CANADA. [space]^{11/22} CALL ATTENTION OF THE COURT 4TH CALIFORNIA PAGE 342. [space] JUDGE HOGE CALLED MY ATTENTION SECTION 22 GOVERNMENT PRACTICE ACT. LAWS OF UTAH. [space] IN THIS CASE I SUPPOSE WE WOULD HARDLY WAIVE [space] I HARDLY THINK I WOULD DO THAT; THAT THE DEPOSITIONS OF WITNESSES MIGHT BE TAKEN [space] PAGE 239 IN PLACE OF 242 [space] OPINION BY CHIEF JUSTICE MURRAY/M-R[?]. APPEAL PROSECUTED FROM THE DISTRICT. [space] 3RD SUB DEFINITION OF HIS OPINION ON PAGE 241. [space] HERE DID NOT CLAIM TO HAVE EXHAUSTED THE PROCESS OF THE COURT BUT THEY EXHAUSTED FUNDS OF THE GOVERNMENT. THEY DO NOT CLAIM THAT THE PROCESS HAS BEEN SERVED AND EXHAUSTED BUT THAT THEY HAVE EXHAUSTED THE FUNDS OF THE COURT. THAT IS A VERY STRONG AUTHORITY UPON THAT POSITION. [space] READ FROM 40 CALIFORNIA PAGE 653. PEOPLE AGAINST M-LNGR[?]. [space] I WILL READ FROM 46 CALIFORNIA PAGE 114 CASE PEOPLE AGAINST -SMD-MORE/[?]. READ FROM PAGE 119. [space] COURT ERRED IN DENYING PLAINTIFF'S

22. At top of page in crossed out shorthand: 10 CLAIM THAT THE —[?] MUST RECORD —[?] THE. The verso of page 11 reads:

THE PEOPLE	
VS	THOMAS FISH
FISH	
WARREN	PUT DOWN FOR TRIAL
THOMAS FISH	THURSDAY MORNING

MOTION FOR A CONTINUANCE. [space] IN THIS CASE WE CLAIM THE APPLICATION IS MADE FOR DELAY. IF NOT FOR DELAY WHY IS IT MADE AND WHAT IS THE OBJECT. [space] SHALL CALL ATTENTION NOW THAT THE FIRST APPLICATION IS CERTAINLY INSUFFICIENT TO JUSTIFY THE RULING THIS COURT THAT IS ASKED IN THE MOTION WE WILL THEN TAKE THE SECOND APPLICATION BECAUSE IT IS CERTAINLY A VERY PECULIAR DOCUMENT. THAT THERE ARE LARGE NUMBER OF WITNESSES PART OF THE PROSECUTION THIS CASE OTHER THAN THOSE WHOSE NAMES ARE ON THE INDICTMENT *RULING*[?] WHOSE TESTIMONY ARE NECESSARY AND *IMPORTANT*[?] AND THAT PROSECUTION CAN'T GO TRIAL THIS COURT WITHOUT THE ATTENDANCE OF SUCH WITNESSES. IN THIS CASE THERE IS NO STATEMENT THAT TESTIFIED BEFORE THE GRAND JURY AREN'T PRESENT IN COURT AND READY TO TESTIFY TO THE SAME STATEMENT THAT WERE TESTIFIED TO BEFORE THE GRAND JURY AND UPON WHICH THE GRAND JURY FOUND BASED THE INDICTMENT NOW ON FILE IN THIS CASE. THEN CAN THE GOVERNMENT CLAIM THAT IT HAS A RIGHT TO PILE UP AN ACCUMULATION OF TESTIMONY THAT IT *IS/HAS*[?] THE EVIDENCE UPON WHICH IT FOUND THE INDICTMENT SO THAT IT CAN BE BROUGHT HOME TO THE KNOWLEDGE OF THE COURT GIVEN BEFORE THE JURY BY THE WITNESSES IN PERSON CAN IT BE CLAIMED THAT THEY HAVE A RIGHT TO RUN OUT AND PICK OUT THIS THAT AND THE OTHER —[?] BECAUSE THEY KNOW SOMETHING THAT THEIR WITNESSES HAVE TESTIFIED TO I THINK NOT. TRIAL OF THIS CASE WILL INVOLVE INVESTIGATION OF THE MASSACRE OF 118 DIFFERENT PERSONS WILL YOU PLEASE LET ME SEE THE INDICTMENT OR ABOUT THAT NUMBER IN ONE SLAUGHTER DURING THE MONTH OF SEPTEMBER 1857 [space] AND THAT MURDER OF WHICH PRISONER NOW STANDS INDICTED IS THE KILLING OF ONE OF THESE PERSONS AND SAID TRIAL WILL CONSUME OVER 2 WEEKS. † ~~DON'T KNOW~~ <WHY DID THE UNITED STATES NOT TAKE UP THIS CASE 18 YEARS AGO.> THE LONGER THE TRIAL WILL TAKE THE MORE NECESSITY FOR IT TO START AT ONCE. IF 118 PEOPLE WERE KILLED WHY HAVE THE GOVERNMENT. WHY HAS NOT JOHN D LEE BEEN INDICTED FOR KILLING 118 HE HAS NOT BEEN AS THE EVIDENCE SHOWS INDICTMENT ITSELF [space] BISHOP READ THE INDICTMENT TO SHOW IT DID NOT CHARGE JOHN D LEE WITH HAVING KILLED BUT ONE PERSON. [space] THERE IS NOTHING IN THAT INDICTMENT JUSTIFIES THE PROSECUTION IN CLAIMING THAT THEY CAN GET WITHIN 100 MILES OF THE MOUNTAIN MEADOW MASSACRE THERE IS NOTHING TO JUSTIFY THE PROSECUTION IN THIS CASE WITH SAYING THAT THAT INDICTMENT IS PART AND PARCEL OF THE MOUNTAIN MEADOW MASSACRE SO CALLED THROUGH THE LENGTH AND BREADTH OF THE LAND [space] ^[12] BUT THIS APPLICATION COMES AS A PART OF THE PROSECUTION IN KEEPING IF I MAY SO SAY WITH THE COURSE PURSUED BY ENEMIES OF THIS DEFENDANT WHO ARE TRYING AND NOT ONLY IN UTAH BUT THROUGHOUT THE LENGTH AND BREADTH OF THE LAND TO PREJUDICE HIS RIGHTS BEFORE THE AMERICAN PEOPLE THEN HERE COMES A STATEMENT DRAWN BY THE GENTLEMAN TO TAINT

THAT INDICTMENT AND IN THE INDICTMENT LEAVES OUT ALL THE MATERIAL FACTS OF THE MASSACRE AND THEN CLAIMING IN YOUR INDICTMENT HE CONSPIRED ON ANY THING OF THAT KIND *NO/AFTER*[?] CLAIM THAT HE WAS AIDED BY ANY OTHER PERSON ALUDED AND HAD EVERY OTHER INGREDIENT NECESSARY TO BE PLACED IN THE INDICTMENT OF THAT KIND AND SIZE AND EVIDENCE UPON THIS CASE WILL GO TO SHOW THAT THIS MAN JAMES WILSON UNKNOWN WAS ONE OF THE PARTY CRUELLY MURDERED UPON THAT DAY OR *CONNECTED MOTIVES*[?] WHY DOES THIS APPLICATION COME IN THIS SHAPE AND [space] WHO IS IT THAT IS UPON TRIAL HERE IS IT A GREAT PRINCIPLE AT STAKE OR IS IT THE RIGHTS AND WRONGS OF THIS DEFENDANT IN OTHER WORDS RIGHTS AND WRONGS OF THE CASE AS CONNECTED WITH THIS DEFENDANT CAN THE STATE GO OR THE TERRITORIAL GO OUTSIDE OF THE LINE MARKED BY THEIR INDICTMENT CAN THEY INTRODUCE A WORD OF TESTIMONY AS TO THE DEATH OF ANY OTHER PARTY EXCEPT JAMES *WILSON*[?] MOST CERTAINLY NOT BUT THIS SOUNDS WELL THE SALT LAKE TRIBUNE WILL PAY THEM AND PROMULGATE THEM WITH SUCCESS IN HIS MOTION AND OTHER PAPERS PARTIES THAT WRITE OF THE MOUNTAIN MEADOW MASSACRE LIKE THEY WERE FAMILIAR WITH THE SITUATION WHEN IN FACT THEY NEVER SAW THE GROUND THAT WRITE ABOUT THIS QUESTION THAT WERE LIKE THIS *AS A HEADING*[?] TO AN INCENDIARY ARTICLE TO SEND FORTH THROUGHOUT THE LENGTH AND BREADTH OF THE LAND I TRULY PROTEST AGAINST A STATEMENT OF THAT KIND. TO PLACE IN JEOPARDY THE RIGHTS OF THIS DEFENDANT AND CALL UPON THE DEPRAVED PUBLIC SENTIMENT TO COME INTO COURT AND OUT OF COURT AND TRY *THIS MAN/THESE MEN*[?] FROM NOW UNTIL NEXT JULY UPON THE CHARGE OF HAVING BEEN ONE OF THE PARTIES OF THE MOUNTAIN MEADOW MASSACRE WHEN THE INDICTMENT IS SILENT ON THAT QUESTION. [space] WHY ARE WITNESSES NOT HERE, WHOSE TESTIMONY IS NECESSARY AND IMPORTANT WITHOUT WHICH TESTIMONY THE PROSECUTION CAN'T GO TO TRIAL WHY NOT GO TO TRIAL HOW DID YOU FIND THE INDICTMENT [space] DID YOU FIND THE INDICTMENT UPON THE SAME KIND OF TESTIMONY [space] DID THEY FIND IT UPON GENERAL RUMOR HOW DID THEY GET IT. WE ARE ALLOWED TO PRESUME THEY MUST HAVE FOUND IT UPON PUBLIC RUMOR BECAUSE THEY CAN'T PROCEED TO TRIAL WITH THE 10 MEN WHO ARE SWORN BEFORE THE GRAND JURY. SAYS HE BELIEVES HE MIGHT PROCURE THEIR ATTENDANCE AT THE NEXT TERM OF COURT. WHY DOES HE BELIEVE IT WHERE IS REASON FOR BELIEVING HE CAN PROCURE THEIR ATTENDANCE AT THE NEXT TERM OF COURT, THIS TERM I BELIEVE LAST AT LEAST 3 MONTHS AND IT IS PLENTY OF TIME TO SCOUR THIS DISTRICT EXAMINE EVERY SECRET CANYON WITHIN THE DISTRICT AND IF NECESSARY TO BRING THESE FORWARD. CALL YOUR TROOPS FROM THE FORT CAMERON AND SEND THEN AS THE AGENTS OF THE GOVERNMENT TO BRING <THESE> WITNESSES IN IRONS IF NEEDS BE TO TESTIFY IN THIS CASE. [space]^[13] ARE THE LAWS SO POWERLESS IN UTAH THAT A MAN IS NOT

SAFE WHO HAS COURAGE TO TELL THE TRUTH [space] THEY SAY THE QUICKER IT IS WIPED FROM THE MAP OF UNITED STATES THE BETTER FOR THE CAUSE OF GOD [space] MANKIND. DON'T SAY TO ALL THAT WE ARE LIVING WITHIN THE LIMITS OF THE UNITED STATES GOVERNMENT SUPPOSED TO BE PROTECTED BY ITS LAWS AND THAT THERE CAN BE SUCH A CONDITION OF AFFAIRS AS THAT A MAN IS IN DANGER OF DOING HIS LAWFUL DUTY NO THAT DAY HAS GONE BY. NO MAN KNOWS IT BETTER THAN MY FRIEND WHEDON THAT THE WITNESSES WOULD BE AS SAFE IN BEAVER TO DAY AS THEY WOULD BE IN THEIR SUPPOSED HIDING PLACES. DANGER FROM WHAT IT MAY BE THIS THAT THE PARTIES THAT THE GENTLEMAN PROPOSES TO PROVE THESE FACTS BY ARE MEN NOW UNDER INDICTMENT AND SEEKING TO TURN STATE'S EVIDENCE THEY ARE THE ONLY KIND OF MEN THAT WOULD BE IN ANY DANGER THEY MIGHT IF THEY CAME UP TO IT BE COMPELLED TO WEAR CHAINS TO KEEP THEM IN SAFETY UNTIL THEIR TRIAL MIGHT GO ON. [space] UPON BACK OF THIS INDICTMENT I FIND THE NAMES OF 10 MEN [space] THAT HAVE BEEN PUBLISHED TO THE WORLD AS THE ACCUSERS OF THIS MAN THEY ARE THE PARTIES THAT STAND BEFORE THE WORLD STAND BEFORE THIS COURT AS THE ACCUSERS OF JOHN D LEE WHERE HAVE THEY BEEN INJURED WHO HAS ATTACKED EITHER ONE OF THEM WHERE IS THE DANGER WILLIAM ROBERTS ETC. [space] ROBERT KEYES THOMAS WILLIS CHARLES SOLOMON ROBERT BULLOCK NORIS E C MATTHEWS AND ROBERT KERSHAW ALL ALIVE AND WELL. HAVE THEY BEEN ASSASSINATED BECAUSE OF GOING BEFORE THE GRAND JURY TO TESTIFY MOST CERTAINLY NOT NOTHING OF THAT KIND OR CHARACTER. THEN IF 10 MEN ARE SAFE SURROUND THEM WITH THE REMAINDER OF THEIR CREW TAKE ALL OF THOSE MEN THE UNKNOWN WITNESSES AND BRING THEM INTO THE CITY OF BEAVER AND LET THEM COMPANION WITH THE 10 AND THEY WILL BE A CROWD SUFFICIENT TO PROTECT THEMSELVES EVEN AGAINST THE SOLDIERS AT FORT CAMERON. THERE IS NO DANGER [space] NO DANGER IN THE WORLD. MY/I[?] MIGHT CLAIM THAT THEY WERE GOING TO RELY UPON SWORN TESTIMONY THAT WE WOULD BE PREPARED TO PROVE HIS WITNESSES HAD LIED TO HIM. [space] REFERRED²³ AGAIN TO PART SAYING MARSHALL HAD TRAVELED 300 MILES AND MADE DILIGENT EFFORT TO SUBPOENA THEM SEVERALLY. [space] WHAT IS THE PRESUMPTION AS TO THE NEXT TERM? LIKELY PRESUMPTION WOULD BE HE WILL NOT BE ABLE TO FIND THEM NEXT TERM. ONE WAY I SEE FOR THEM TO GET THESE WITNESSES IS TO TAKE THAT 23 THOUSAND DOLLARS AND PUBLISH A REWARD. [space] SUPPOSE HE HAD A 100 PEOPLE THAT WITNESSED THE MOUNTAIN MEADOW MASSACRE WE DO NOT WANT THEM IN THIS CASE UNLESS THEY CONNECT THE DEFENDANT WITH FACT WITH THE KILLING OF THIS MAN NAMED IN THE INDICTMENT THAT SOME OF THEM CAN'T TESTIFY AND HE DOESN'T SAY THAT THEY CAN'T. THAT MARSHAL THIS TERRITORY HAS ALREADY INCURRED LARGE INDEBTEDNESS THAT THE SAME REMAIN

23. The word is in the left margin.

UNPAID NO MONEY REMAINS IN HIS POSSESSION OUT OF WHICH HE IS AUTHORIZED OUT OF WHICH HE CAN PAY THE SAME EXPENSES. TRIAL OF SAID LEE WILL INVOLVE THE EXPENDITURE. MARSHAL SOON DEAD SO AM I [space] LASTLY THE WITNESSES OF THIS CASE ARE ALL UNAVAILABLE AND LIABLE TO BE SUED IF THEY ARE ABROAD. LEADING WITNESSES UNABLE TO ATTEND COURT. TO TAKE THE POSITION BECAUSE MY FRIEND MAXWELL SOON DEAD AND HAS NO MONEY TO PAY THIS EXPENSE WITH IN MY JUDGMENT IS ON PAR WITH SOME OTHER STATEMENTS IN THIS CASE AND IS NOT MATERIAL. MAN THAT WILL HOLD TONGUES FOR 8 OR TEN YEARS IS LIABLE TO BE POOR NEVER SAW ANY ONE THAT WAS NOT[?] EXCEPT INDIAN AGENT ^[14] NECESSARY THIS CASE BE INVESTIGATED AT ONCE AND THOROUGHLY INVESTIGATED REGARDLESS OF EXPENSE. [space] READING FROM MOTION FOR CONTINUANCE; JURY NECESSARY TO BE KEPT APART ETC. KEEP JURY TOGETHER IN CRIMINAL CASE THAT THE TERRITORIAL AUTHORITIES WHOSE DUTY IT IS TO PAY EXPENSE OF SAID TRIAL HAVE REFUSED TO PAY ANY EXPENSES INCURRED AND STILL REFUSE TO PAY ANY PART OF SAID EXPENSE IN CONSEQUENCE OF WHICH VERY MANY OF SAID JURORS AND WITNESSES BECOME PREJUDICED THEREBY WHICH GREATLY INJURES AND RETARDS JUSTICE. THERE IS NOTHING IN THIS STATEMENT TO SHOW THE TERRITORY HAS NO FUNDS AND IF THE TERRITORY HAS THE FUNDS IN THE HANDS OF THE PROPER PARTIES YOUR SUPREME COURT HAVE THE RIGHT TO COMPEL THOSE PARTIES TO PAY WHEN MY FRIEND JUDGE WHEDON PRESENT HIMSELF IN COURT AND ASK THEM TO DO SO. IF THIS STATEMENT WAS PUBLISHED THIS WOULD BE A VERY BAD SHOWING TO PEOPLE WHO ARE DESIROUS OF COMING HERE. PROPOSITION RESOLVES ITSELF AS THE PROSECUTION IN THIS CASE BROUGHT ITSELF TO THE STRICT RULE OF THE LAW. HAS THERE HAS BEEN SUCH A SHOWING THAT THEY MADE BY THE DEFENDANT ANXIOUS AND READY FOR TRIAL THAT THE GOVERNMENT WOULD BE FORCED TO GRANT THE CONTINUANCE. I TAKE IT THEY HAVE NOT. BY WHEDON.²⁴ THREATS COUNSEL REFERRED TO ARE ALL INAPPLICABLE. THEY EXAMINED ALL THREATS AND FOUND NO PLACE WHAT WAS RULED NECESSARY TO IMMEDIATELY GIVE STATEMENT IN WRITING. HAVE NOT FOUND IT. COUNSEL REFERRED TO ONE CASE IN SUPREME COURT OF CALIFORNIA BUT MAKES NO MENTION OF WHAT HE IS REQUIRED TO PRODUCE WHAT HE SHALL STATE AND WHAT HE SHALL FIND ALL IN WRITING. SOME REMARK BEEN MADE ABOUT STATUTE OF LIMITATIONS WHICH SAYS CASE SHALL BE PROSECUTED AS SOON AS CIRCUMSTANCE WILL ADMIT. [space] AS LONG AS THEY HAVE GONE INTO THIS I MEAN GO INTO THIS MYSELF. I HOLD IN MY HAND A LETTER FROM WILLIAM CLAYTON IN WHICH HE REFUSES TO PAY ANY PERSON OF THIS COURT UNLESS [space] AND THAT LEGISLATOR THEY HAD ELECTED LAST SEASON J M MCFARLANE. NOW GENTLEMEN WHEN THE LEGISLATURE OF THE TERRITORY TAKE THAT POSITION THAT THEY REFUSE TO PROSECUTE REFUSE TO FURNISH MEN TO PROSECUTE CRIMES THAN THE MEN THAN

24. "BY WHEDON." is in the left margin.

THEY SELECT AND WHEN THOSE THEY SELECT COME HERE AND DEFEND THE SAME ACT THAT THEY HAVE COMPLAINED OF. THAT SHOWS WHY THIS CASE NEVER WAS PROSECUTED BEFORE WHY THE DELAY OF 17 YEARS HAS ELAPSED BEFORE THIS INDICTMENT WAS FOUND IT SHOWS ALSO THE EMBARRASSMENT THE PROSECUTION LABOR UNDER HERE IN THIS CASE AND GET THIS —/TASK[?]. I TAKE THE GROUND HERE AND *W- /THAT*[?] I DO NOT RECOLLECT IT WAS PLACED IN THE HANDS OF THE CLERK IT MIGHT HAVE BEEN COUNTED TO HAVE BEEN FILED BUT HE HAVEN'T HAD IT FILED UNTIL THIS MORNING. I TAKE THE POSITION AND BELIEVE I AM CORRECT THAT THE GOVERNMENT IS OBLIGED TO GIVE THE NAMES OF THE WITNESSES *HE/OR/AND*[?] STATE THAT HE MAY USE TO PROSECUTE I HAVE BEEN AN OBSERVER OF THE PRACTICE OF THE COURTS FOR MANY YEARS AND NEVER YET OF ANY PLACE KNEW OF A PROSECUTOR BEING CALLED UPON TO STATE IN WRITING HIS EARLY STATEMENTS WERE TAKEN AS SWORN STATEMENTS OF THE CASE. IT WOULD PREJUDICE THE GOVERNMENT VERY MUCH IF THEY HAD TO GO INTO THE COURT AT THE FIRST TIME AND MAKE STATEMENT OF ALL THE WITNESSES. [space] THERE IS NO SUCH THING AS A STATUTE OF LIMITATIONS IN THIS TERRITORY ALL THERE IS IS THAT THEY SHALL PROSECUTE AS SOON AS THE CIRCUMSTANCES WILL PERMIT AND I THINK I HAVE SHOWED HERE THAT A DELAY IS NECESSARY TO PROSECUTE THIS CASE. IT WOULD HAVE BEEN YET ASLEEP IF CONGRESS HAD NOT TAKEN THE MATTER —[?]²⁵ IN BY PASSING THE POLAND BILL. IT HAS NOT ELAPSED YET SUFFICIENTLY TO GET THAT APPROPRIATION HERE FOR THE BENEFIT OF THIS COURT HAVE JUSTICE DONE WITH FAIRNESS THAT WITNESSES MAY COME HERE AND GET MONEY AND PAID FOR IT. [space] COUNSEL AUTHORITIES READ DO NOT APPLY TO PROSECUTION THEY APPLY TO DEFENSE ENTIRELY DEFENSE RULE THEN WHAT THERE IS FOR THE DEFENDANT. THEY TAKE POSITION HERE WHETHER WITNESS NAMES OR NOT ON THE INDICTMENT DISCHARGE DUTY OF *KNMS/ENCONOMIZE*[?] TO SUBPOENA BEST WITNESSES HE CAN WHETHER THEIR NAMES ARE ON THE INDICTMENT OR NOT. IT IS DUTY THEN TO HAVE THESE WITNESSES IN COURT THAT IS ALL I ASK. [space]^[15] THIS MURDER WAS COMMITTED IN THE MOUNTAIN MEADOW AND WHEN TRIAL GOES ON IT CAN'T TRANSPIRE BUT IN DEVELOPING THAT FACT. THIS CRIME WAS COMMITTED THERE AND I THANK THE COUNSEL WHILE I WAS VERY MUCH PLEASED WITH HIS REMARKS BUT YET THE MAJORITY OF THEM WERE ENTIRELY INAPPLICABLE TO THE TRIAL OF THIS CASE. WERE BROUGHT HERE WITH A VIEW TO GET YOUR HONOR TO ESTABLISH THAT RULE IF YOU DID IT WOULD BE IMPOSSIBLE TO DO JUSTICE IN THIS CASE OR ANY OTHER OF THESE CASES IN THIS TERRITORY. [space] I HAVE NO AUTHORITIES TO SUBMIT BECAUSE THERE ARE NONE LAID DOWN AS TO WHAT THE PROSECUTION SHALL SUBMIT. [space] FIRST STATEMENT CONTAINS ALL THAT IS NECESSARY AND I FEEL THE 2^D IS —[?]. DID JUSTICE TO THE DEFENDANT HERE AS WELL AS DID JUSTICE TO THE

25. Word crossed out until illegible.

COUNTRY AND IF HE IS NOT GUILTY I AM PERFECTLY WILLING HE SHOULD BE ACQUITTED. MARSHAL TRAVELED OVER 300 MILES *IS NOT*[?] RESISTANCE OF PARTIES HE WISHED TO HAVE COME HERE. THEY ARE AFRAID TO COME HERE CONSEQUENCE OF NO FUNDS AND EXPENSES. [space] NOT FOR PURPOSE OF DELAY. IF LEE GUILTY PARTY HE WILL BE CONVICTED AS ANY OTHER MAN SHOULD BE. [space] BY SPICER WISHED THE COURT TO LOOK AT THE SUBPOENAS ISSUED AND SEE IF THEY HAVE NOT BEEN SERVED AND WHAT TIME ETC.. PROSECUTION ASSENTED COURT BY JUDGE BOREMAN I SHALL CONFINE ~~MYSELF~~ TO THE STATEMENTS MADE. [space] **COURT** TOOK WRITTEN STATEMENT ON THE PART OF PROSECUTION FOR CONTINUANCE INTO CONSIDERATION READING THE SAME ON THE BENCH AS ALSO STATEMENTS ON PART OF DEFENSE IN ANSWER TO THAT FILED BY PROSECUTION. [space] BY THE COURT WE'LL TAKE A RECESS UNTIL TWO O'CLOCK. [space] COURT MET PURSUANT ADJOURNMENT 2 **PM**. BY BOREMAN²⁶ SEVEN OBJECTIONS RAISED BY *INDIVIDUAL*[?] STATEMENT BY PROSECUTION ATTORNEY [space] 2 OR 3 OF THEM HOWEVER ARE SIMILAR. [space] FIRST OBJECTION IS THAT IT DOESN'T STATE MARSHAL HAS USED DUE DILIGENCE TO OBTAIN WITNESSES. [space] DILIGENCE USED WAS THAT THE MARSHAL ~~WAS UNABLE~~ HAS TRAVELED OVER SOME THREE HUNDRED MILES TO FIND AND SUBPOENA THESE WITNESSES BUT WAS UNABLE TO FIND THEM [space] SHOWS THEN THAT THE MARSHAL SAYS HE USED DUE DILIGENCE AND THAT IT CONSTITUTED IN HUNTING FOR THE WITNESSES TRAVELING SOME THREE HUNDRED MILES IN SEARCHING FOR THEM AND WAS UNABLE TO FIND THEM [space] I THINK HE THOUGHT IT IS SUFFICIENTLY STATED. [space] 2^D IT DOESN'T STATE OR SHOW THAT THE WITNESSES ARE MATERIAL OR IF MATERIAL IT FAILS TO STATE IN WHAT RESPECT THEY ARE MATERIAL. PROSECUTION DOES NOT IN ANY MANNER SET FORTH WHEREIN THE WITNESSES ARE MATERIAL VIRTUALLY SAME THING IT DOESN'T STATE THAT THE WITNESSES ARE MATERIAL THAT STATEMENT SAYS HE IS NOT ABLE TO FIND AND SUBPOENA A NUMBER OF THE WITNESSES. ~~WHO WAS~~ NECESSARY MATERIAL AND IMPORTANT ON THE PROSECUTION OF THE *PL*[?] OF THIS CASE AND DEPENDENT BECAUSE HE KNEW NO OTHER BY WHOM HE CAN PROVE THE SAME FACTS CAN'T GO TO TRIAL WITHOUT THEIR TESTIMONY. [space] IT IS NOT NECESSARY IN APPLICATION TO STATE ESPECIALLY UPON THE FIRST APPLICATION IN WHAT RESPECT THE EVIDENCE IS MATERIAL IT IS NOT NECESSARY TO STATE THAT. ON THE FIRST APPLICATION ESPECIALLY IN EITHER THE CIVIL OR CRIMINAL CASES [space] IT DOESN'T STATE WHO THE WITNESSES ARE OR *WHETHER*[?] THEY WILL TESTIFY *WHY/IF*[?] MATERIAL IN THIS CASE, OR WHAT THEY WILL TESTIFY ON CONCERNING THE STATEMENT THAT THESE WITNESSES ARE MATERIAL AND NECESSARY AND IMPORTANT AND THAT THE PROSECUTION CAN'T GO TO TRIAL WITHOUT THEM [space] ^[16] HE SAYS THERE IS NO REASON OR LOGIC OR JUSTICE IN THE STATEMENT THAT THE CASE IS POOR BECAUSE THE GOVERNMENT IS

26. "BY BOREMAN" is in left margin.

POOR THAT IS NO REASON WHY DEFENDANT SHOULD BE RETAINED IN CUSTODY TO ENABLE GOVERNMENT TO CONDUCT PROSECUTION I WILL ≤STATE≥ THAT THE STATEMENT FILED DOESN'T PUT UP ANY SUCH GROUNDS AS I UNDERSTAND IT THAT THE NATION IS POOR OR UNABLE FURNISH THE MONEY FOR THIS PROSECUTION BUT IT SETS UP THE GROUND THAT THE TERRITORY HAS FAILED IN ITS DUTY IN PROVIDING FUNDS IN THE CARRYING ON THIS PROSECUTION THE GOVERNMENT HAS MADE SOME PREPARATION WHICH THE GOVERNMENT IT WAS NOT THE DUTY OF THE GENERAL GOVERNMENT TO DO BUT THAT WOULD NOT BE VERY MATERIAL. [space] STATEMENTS DOESN'T ≤STATE≥ THAT THE WITNESSES ARE WITHIN JURISDICTION OF THE COURT OR RESIDING IN THEIR KNOWN LOCALITY. AND THAT THEIR ATTENDANCE CAN BE PROCURED AT THE NEXT OR ANY OTHER TERM OF COURT [space] AS TO THE LAST POINT MATERIALITY IS REFERRED TO BEFORE HE STATES THEY ARE MATERIAL. IT IS NOT NECESSARY THAT THE WITNESSES SHOULD STATE WITHIN THE JURISDICTION OF THE COURT PRESUMPTION IS THAT THEY ARE WITHIN THE JURISDICTION OF THE COURT [space] IF SUBPOENAS ISSUED OFFICERS UNABLE TO FIND THEM THAT WOULD BE SUFFICIENT OF THAT. [space] THAT STATEMENT OUGHT TO HAVE BEEN IN THE STATEMENT OR SOMETHING SIMILAR TO THAT. [space] THE STATEMENT *DESIGNED*[?] FILED BY ATTORNEY THAT THERE ARE THERE ARE OTHER ≤NO≥ WITNESSES BY WHOM THE MATERIAL ALLEGATIONS IN THIS CASE CAN BE PROVED HE KNOWS OF NO OTHER WITNESSES BY WHOM HE CAN PROVE THE SAME FACTS AND CAN'T GO TO TRIAL WITHOUT THIS TESTIMONY. SAY THAT IS DIRECTLY NEGATIVE. [space] THERE IS *IN/NOT*[?] ONLY ONE OF 6 GROUNDS 7 GROUNDS BUT WHAT THE STATEMENT IS SUFFICIENT UPON AND THAT ONE IS SUFFICIENT UPON EXCEPTING ONE PARTICULAR *FURNISH*[?] IN STATING THAT THEIR ATTENDANCE COULD BE PROCURED AT THE NEXT TERM OF THIS COURT OR ANY OTHER TERM OF THE COURT THEN THE QUESTION ARISES WITH ME WHETHER THE SIMPLE FACT WHETHER THAT POINT IS LAWFUL POINT IS LEFT OUT OF THE 5TH OBJECTION WHETHER THAT WOULD BE SUFFICIENT GROUND FOR CONTINUING THE CASE [space] THE COURT IN LOOKING AT A MATTER OF THIS KIND MUST TAKE INTO CONSIDERATION THE CONDITION OF THE COUNTRY AND THE FINANCIAL CONDITION AS WELL AS ANY OTHER CONDITION AND THE QUESTION ARISES WHETHER UNDER THE CIRCUMSTANCES THE FAILURE TO PUT THAT IN THE COURT OUGHT TO CONTINUE THIS CASE. IF THIS WERE A CIVIL CASE I SHOULD REQUIRE THAT TO BE STATED PLAINLY BUT HERE *A/THE*[?] PROSECUTING OFFICER I HAVE REQUIRED HIM TO MAKE A STATEMENT IN WRITING WHICH THE LAW DOESN'T REQUIRE HIM TO MAKE AND WHICH THE DEFENSE HAS NO CLAIM UPON HIM FOR THE DEFENSE CAN'T DEMAND THAT THIS STATEMENT BE MADE IN WRITING BUT IN ORDER TO HAVE THE MATTER SQUARELY AND PLAINLY BEFORE ME I HAVE REQUESTED HIM TO PUT IT INTO WRITING WHICH HE HAS DONE. HERE IS A CASE WHICH HAS BEEN 17 YEARS SINCE THE ACT WAS COMMITTED [space] SINCE IT WAS URGED TO

HAVE BEEN COMMITTED IN THAT TIME WE ARE WELL AWARE THE ACTS HAVE NOT BEEN *INDICTED*[?] THE *DESIGN*/—[?] TO PROSECUTE ANYBODY LEGISLATURE OF THE TERRITORY IS VERY UNPLEASANT FOR FORTUNE AND SO SAY THEY ACTED IN HOSTILITY TO THE GOVERNMENT ALL THE WAY THERE [space] *PT/BUT*[?] THE COURTS NEEDED FACTS SO THEY CAN EXECUTE THE LAWS [space] NO MATTER WHETHER IT IS PLEASANT OR UNPLEASANT IT IS NEVER THE LESS A FACT THE STATUTE BOOKS SHOW THIS ^[17] QUESTION ARISES TERRITORIAL LEGISLATURE BEEN ENGAGED TO CLOG THE WHEELS OF THE COURT [space] *OVERTLY/APPARENTLY*[?] THEIR WHOLE SYSTEM OF LAW IS TO CLOG THE WHEELS IN GOING AHEAD WITH THIS COURT IN GETTING OTHER JURORS. FEDERAL COURT HAVE AIDED US IN RESPECTS THAT THIS COURT HAS A DEFINITE RESPONSIBILITY FOR THIS [space] WE ASSUME HE IS NOT RESPONSIBLE FOR THIS AND THE QUESTION ARISES WOULD NOT THAT BE *SAME/SOME*[?] REASON WHY THE FEDERAL AUTHORITIES WOULD NOT BE ABLE TO PROSECUTE THIS CASE WOULD NOT BE ABLE TO PROSECUTE THIS CASE NO MATTER [space] WE ASSUME THAT THE DEFENDANT HAD NOTHING TO DO WITH IT [space] AS THE PROSECUTING OFFICERS COULD COME BEFORE A COURT FREELY THIS TERM THE DEFENDANT HAD NOTHING TO DO WITH THIS [space] WE ARE IN JUST THIS SITUATION THAT THERE MUST HAVE BEEN PERPETUATOR AS IS WELL KNOWN TO ALL BUT THEY ARE NOT HERE YET. I WILL STATE HERE AS I STATED IN REGARD TO MR. DAME'S CASE THE OTHER DAY I HAVE UNIVERSALLY WHENEVER THIS QUESTION HAS COME UP I TOLD EVERYBODY I WANTED THIS CASE TRIED VERY FIRST OPPORTUNITY. I HEARD WHEDON ABOUT TWICE TELEGRAPH HE WOULD NOT BE READY TO —[?] *BUT AS/BTS*[?] *HE*[?] YOU WAS ANXIOUS TO HAVE THEM DISPOSED OF IT IS NOT FAIR TO HAVE CASES HANGING AND HANGING ON TO HAVE PRISONERS DETAINED IN PRISON. THE LAW SAYS A MAN SHALL HAVE A SPEEDY TRIAL AND THE STATUTES OF THE TERRITORY SAYS A TRIAL SHALL BE HAD AS SOON AS THE CIRCUMSTANCES OF THE CASE WILL PERMIT. PROSECUTORS STATE HERE THAT THEY WILL BE READY TO TRY THIS CASE IN JULY AS THEY BELIEVE. I WILL STATE HERE IT WILL HAVE TO BE A REMARKABLY STRONG CASE TO CONTINUE IT ANOTHER TERM. THERE WAS SOME TALK ABOUT A CONTINUANCE I FIND THE CONTINUANCE WAS BY THE CONSENT OF BOTH PARTIES THE NEXT TERM WAS TO HAVE BEEN IN FEBRUARY WITHOUT ANYTHING I HAD TO DO WITH IT SAW PROPER TO CHANGE THAT TERM *TO*[?] JULY THIS IS THE FIRST APPLICATION FOR CONTINUANCE [space] THE DEFENDANT HAS BEEN IN PRISON SINCE LAST FALL SOMETIME IT IS NO PLEASURE OF THE COURT TO HAVE ONE PRISONER MORE THAN ANOTHER [space] I WILL STATE TO THE PROSECUTION I WILL GRANT THE APPLICATION THIS TIME I EXPECT THE PROSECUTION TO BE READY IN JULY IF IT TAKES ALL NEXT SUMMER. LET THE CASE BE CONTINUED. BY BISHOP LET THE CASE BE CONTINUED. [space]

^[1] [18] WEDNESDAY APL 14/75 2 PM [space] BY MAXWELL IT IS NECESSARY FOR ME TO PRESENT SOME ACCOUNTS TO THIS COURT. WE ARE NOT GOT READY TO FIX UP THESE ACCOUNTS. ADJOURNED COURT UNTIL TOMORROW MORNING TEN O’CLOCK. [space] ~ [space]

THURSDAY APL 15 1875 COURT MET PURSUANT ADJOURNMENT 10 AM. CLERK READ MINUTES TUESDAY 13TH. GENERAL MAXWELL I PRESENT ACCOUNTS CURRENT AS THEY BEEN *TKS/TAX*[?] VOUCHERS US MARSHALL SEPTEMBER TERM 1875 I HAVE SWORN TO THEM BEEN APPROVED ONCE BUT I UNDERSTAND NOW IT IS BETTER TO BE APPROVED BY YOUR HONOR. BY PROSECUTION I HAVE EXAMINED THESE COURT LATE —[?] I I RECOGNIZE ALL PROCEEDINGS AND BELIEVE THEM TO BE CORRECT. CLERK READ NAMES OF THE JURORS 10 PRESENT ALBERT LOMREAUX ABSENT MARSHALL CALLED HIM THREE TIMES. [space] CLERK ADMINISTERED OATH THOMAS DAVENPORT. BY PROSECUTION *HE/THE*[?] I DO NOT KNOW ANYTHING OF THE CASE RESIDENT IRON COUNTY ABOUT 20 YEARS NATURALIZED ENGLAND NATURALIZED FIRST PAPERS CLERK DISTRICT COURT ST. GEORGE SECOND PAPERS GOT HERE FROM JUDGE HAWLEY. READ AND WRITE. NO OBJECTIONS; HOGE OBJECTED TO MANNER PROSECUTION’S PUTTING QUESTION ~~BY HOGE~~ *DAVENPORT* ACCEPTED; ASKED JUDGE COURT ASKED THOMPSON QUESTION OR TWO. UNDERSTOOD YOU TO SAY YOU HAD HAD SOME DISCUSSION ABOUT THIS MATTER. [space] DIDN’T YOU EXPRESS YOURSELF AT THAT TIME THAT DEFENDANT OUGHT TO BE PUNISHED. DO YOU RECOLLECT SOME DURING THAT DISCUSSION WAS NOT MR. WILLIAMS THE CLERK PRESENT AT THAT TIME, I THINK HE WAS NOT. HAVE NOT EXPRESSED OPINION THAT DEFENDANT OUGHT TO BE PUNISHED FOR VOTING. HE EXCUSED MR. THOMPSON BY COURT STAND ASIDE. BY HOGE IF YOUR HONOR PLEASE WE’LL TAKE THE JURY AS IT NOW STANDS AND TRY THE CASE. BY PROSECUTION WE WISH TO HAVE THE PANEL FILLED UP. ~~BP~~ THE COURT PLEASE IN THE CASE PEOPLE AGAINST *BKN/PKN*[?] THAT MR. HAWLEY’S CASE AND NOT KNOWING WHO THE PARTIES WERE IN INTEREST I FIND CLIENTS OF MINE ARE PARTIES IN THE CASE IMPOSSIBLE FOR ME TO ACT UPON THE CASE I WOULD ASK LEAVE TO WITHDRAW AS ATTORNEY FOR DEFENSE AND ENTER ON PART OF PROSECUTION. BY *WHEDON/EATEN*[?] THAT IS CORRECT IF THE COURT PLEASE AS AFTER CONSULTING WITH US, **12 M**²⁷ GENTLEMEN OF THE JURY CHARGED UNDER THE SAME INSTRUCTIONS ~ ABSENT JUROR CALLED BY STOKES.²⁸ **LOMREAUX**. . NAMES PRICE LEMUEL BUTLER HORTON BILLY CAMERON RICHARD *BSNS*[?] BURTON EVERETT *HITE/HYDE*[?] DAVENPORT. ADJOURNED UNTIL 2 **PM** *L*[?] [space] 2 PM BY MAXWELL LET ME HAND ACCOUNTS NOVEMBER 1874 VOUCHERS ALL SIGNED EXCEPTING ONE KEEPING * 3464.67 *²⁹ JOHN D LEE FORT CAMERON. BY COURT ARE THEY SIMILAR TO THE ONES I

27. “**12 M**” is in the left margin.

28. “WHEDON” written and repeatedly crossed out.

29. “*” is in the left margin.

SIGNED BY MAXWELL YES SIR YES SIR . [space] BY PROSECUTION I LOOKED THESE OVER AS FAR AS I CAN JUDGE THEY ARE NEARLY ALL FAMILIAR TO ME AND BELIEVE THEM TO BE CORRECT [space] BY MAXWELL THEY ARE MADE IN TRIPPLICATE. COURT EXAMINED ACCOUNTS SIGNING SEVERAL OF THEM BY MAXWELL I SAY YOUR HONOR PLEASE THAT THE \leq AMOUNT \geq OF THIS ACCOUNT CURRENT SHOULD BE GONE OVER WITH BY MR. WILLIAMS HIMSELF AND THAT A RECORD BE KEPT OF EACH SEPARATE AMOUNT I THINK IT IS CORRECT HOWEVER. [space] CLERK CALLED NAMES OF JURY. S R BURTON ABSENT AND BUTLER ABSENT. [space] BY THE PROSECUTION I THINK OTHER JURORS WILL NOT BE ABLE TO GET HERE BEFORE TONIGHT UNLESS THEY HAVE HORSES IT WOULD BE ~~IMPOSSIBLE~~ ALMOST IMPOSSIBLE FOR THEM TO GET HERE BEFORE THAT TIME ANYWAY. BY COURT THIS CASE WILL HAVE TO GO OVER UNTIL TOMORROW MORNING. ADJOURNED COURT UNTIL TOMORROW MORNING TEN O'CLOCK. [space]

[2] **THURSDAY APL 16/75** [space] STRIKING OUT 5TH AND SEVENTH COUNTS IN WHICH IT IS ALLEGED PARTIES SELLING LIQUORS HAD NO LICENSE THEREFORE SALE WAS VOID. [space] I HAVE EXAMINED AUTHORITIES PRETTY CAREFULLY SATISFIED RULE THIS *COUNTRY/COUNTY*[?] WOULD NOT WARRANT HIM IN TAKING POSITION THAT THOSE SALES WERE ILLEGAL AND VOID AS FAR AS DEFENDANT IS CONCERNED AS FAR AS PUBLIC IS CONCERNED IT WOULD. IT IS TRUE *ALLEGED*[?] DONE NOT BECAUSE SMITH AND PARSONS ALSO *CLIENT*[?] AND CONTRACTING IS ILLEGAL COURTS WILL NOT GRANT ANY RELIEF TO PARTIES IN THAT CASE AND BOTH OF THEM REFERRED TO FACT THEY HAVE NEVER KNOWN A CASE UNLESS CIRCUMSTANCES OR THING TO BE DONE WAS LEGAL IF THE CIRCUMSTANCES AND THE THING TO BE PERFORMED IS IF BOTH ARE LEGAL THEN CONTRACT WILL BE ENFORCED IN THE CASE *THIS/THUS*[?] OF THE *PRL*[?] *REVENUE*[?] CASE THIS —[?] CASE THAT COMES UNDER THE COMMON LAW RULE SEEING THIS IS PUBLIC POLICY OR MERELY IT IS UNDER THE RULE IN REFERENCE TO *REFUSING*[?] ENTIRELY HERE A PENALTY IS ATTACHED TO PARTY FOR SELLING WITHOUT LICENSE AND THAT PENALTY CAN BE ENFORCED BUT IF THE CONSIDERATION IS *GOT*[?] THERE IS NO DISPUTE THE PAYMENT OF THE MONEY FACT IS NO WRONG EXCEPT BY MAKING CONTRACT HAD NO RIGHT TO MAKE IT ON ONE SIDE. CONTRARY PUBLIC POLICY ON SIMPLE CONTRACT WE COULD NOT THEN ENFORCE IT BUT WHERE IT IS POOR *PR/PURE*[?] REVENUE CASE I COULD NOT SAY IT HAS ANY DEFENSE BUT THE STATUTE THE *BRD/BRT/PART*[?] PARTIES THE GOVERNMENT TAKES CARE ITSELF IN THAT CASE *BUT HE*[?] BY LOOKING IN A MATTER THIS KIND HE DON'T INQUIRE WHETHER MAN IS LICENSED OR NOT HE LOOKS TO WHETHER HIS CONTRACTING IS GOOD IS RIGHT ALL THE WAY THROUGH OR NOT [space] IF THE PARTY HAS NOT COMPLIED WITH THE LAW; LET THE LAW BE ENFORCED AGAINST HIM SO \leq THEN \geq FAR AS THE MOTION GOES 5TH AND 7 COUNTS IT WILL BE SUSTAINED OTHERWISE IT WILL BE OVERRULED. [space] BY JUDGE

STRICKLAND ~~IN THIS~~ IN CASE A B TAYLOR AND OTHERS STIPULATED AGREEMENT RECALLING EXECUTION I MOVE THAT THE NAME OF MR. BISHOP BE ADDED TO ATTORNEY FOR A B TAYLOR AND OTHERS. BY BISHOP I ASK THAT THE STIPULATION BE FILED AND RECORDED ACCORDING TO THE ORDER OF THE COURT. [space] BY HOGE I HAVE A DEMURRER TO FILE IN THE CASE UNITED STATES AGAINST ALFRED[?] FORD. AND ALSO IN THE CASE OF RITCHIE [space] BY PROSECUTION INDICTMENTS ARE THE SAME ONE DECISION WILL DECIDE BOTH OF THEM. WE'LL JUST SIMPLY STIPULATE DECISION IN CASE OF FORD WILL STAND SAME IN BOTH CASES BOTH BE SUBMITTED AT THE SAME TIME. —/AND[?] I AM READY NOW TO TAKE UP ONE IF THE COURT IS READY. [space] BY PROSECUTION I MOVE THIS COURT LET CASE OF LIGHT[?] BE CONTINUED OVER UNTIL THE NEXT TERM CONSEQUENCE NOT BEING ABLE TO GET JURY ANSWERED BY HOGE WHO AGREED EXCEPT IF PRISONER BE PERMITTED GO ON HIS ON RECOGNIZANCE. COURT WOULD NOT BE WILLING LET THE CASE STOP NOW THAT THE JURY ARE SO NEARLY IMPANELED [space] ~~BY STRICKLAND~~. REFUSE -L-S[?] OF COUNTRY. PETER FOUTS PAROWAN. GEORGE WILSON. JAMES A ST TN/STATOM[?] KANE COUNTY VIRGIN CITY. [space] MR WILSON QUESTIONED NATIVE BORN RESIDENT **B**_ COUNTY NOT FORMED ANY OPINION REGARD TO CASE [space]