

# John D. Lee, First Trial

## Examination of Jurors

**RT**

**RS**

**BT**

**PS**

<p>[Rogerson begins his transcript with copies of the indictments. See MMMCLP, chapter 18, "Indictments and Introduction to Legal Proceedings," for the original indictments.]</p>	<p><sup>[Bk 1 2]</sup><sub>30</sub>  {EXAMINATION OF PETIT JURORS [space] BOOK 1 [space] PLEAS IN ABATEMENT AND COMMENCEMENT OF CAREY'S OPENING SPEECH}P  BY WHEDON WE HAVE SUBPOENAED 110 WITNESSES WE CAN'T TELL HOW LONG IT WILL TAKE. BY SPICER REMARKS. BY COURT IT WILL BE WELL ENOUGH NOT TO LET ANY WITNESSES GO UNTIL WE GET INTO THE TRIAL BECAUSE WE'LL KNOW BETTER THEN. BY COURT PR[?] THERE WILL BE NO FAILURE TOMORROW MORNING I AM ANXIOUS TO HAVE THIS CASE GO ON. ◀BY</p>		<p><sup>[[Bk 1 1]]</sup>  NO 2<sup>31</sup> [space]  MONDAY 19TH</p> <p>[space] ON MOTION OF</p>
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30. Page 1 is not extant. "COMPARED" in longhand is written across the page. The page is dirty, smudged, and extremely difficult to read.

31. Appears to be in Rogerson's hand.

**RT**

**RS**

**BT**

**PS**

	<p>COURT&gt; LEE CASE WILL BE TAKEN UP</p> <p>TOMORROW MORNING TEN O’CLOCK PROMPTLY UNTIL THAT TIME WITNESSES WILL BE DISCHARGED. BY COURT TAKE RECESS UNTIL 2 P. M [space]</p> <p><b>TUESDAY JULY 20 2 P M 1875.</b></p> <p>JOHN D LEE CAME INTO COURT[?] PRECISELY AT TEN O’CLOCK A M. TEN A M. SWORN/CERTAIN[ ?] TEN PAST TEN A M. CLERK READ MINUTES YESTERDAY’S PROCEEDING. MOTION FILED BS-[?] CASE PEOPLE AGAINST <b>JOSHUA FIELDING</b> TO DISMISS BOND. [space] BY COURT JUDGE WHEDON ARE YOU READY YES SIR. BY SPICER</p>		<p>WELLS SPICER TO COURT CASE CONTINUED UNTIL TOMORROW 10 O’CLOCK [space]</p> <p><b>TUES DAY 20TH [space]</b></p>
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**RT**

**RS**

**BT**

**PS**

	<p>WE ARE READY</p> <p>[space] YOU WILL REMEMBER PROSECUTION CALLED</p> <p>NUMBER OF WITNESSES YESTERDAY 107 WERE ASKED THEY ARE TO FURNISH US NAMES OF THOSE WITNESSES <i>INTRODUCED</i>[?] UPON THE BACK OF INDICTMENT. CAREY IF GENTLEMEN ARE ENTITLED TO ANYTHING OF THAT KIND WE ARE WILLING IF NOT WE DO NOT WISH TO FURNISH IT. CAREY THERE WAS TWO INDICTMENTS HERE AND I WISH TO HAVE DEFENDANT ARRAIGNED ON THE SECOND INDICTMENT CLERK WILL</p>		<p>IF YOUR HONOR PLEASE</p> <p>CALLED THE LIST OF THEIR WITNESSES TO THE NUMBER OF</p> <p>106 OR 7 AND ASKED FOR AN ORDER OF COURT FOR A LIST OF THOSE WITNESSES OTHER THAN THOSE ON BACK OF THE INDICTMENT. [space] CAREY. [space]</p> <p>THERE ARE TWO INDICTMENTS HERE [space] AND I WISH TO HAVE THE DEFENDANT ARRAIGNED ON THE SECOND INDICTMENT. <del>CLERK READ.</del></p>
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**RT**

**RS**

**BT**

**PS**

	<p>PLEASE READ IT. BY HOGE WE HAVE NOT BEEN FURNISHED WITH COPY OF THAT INDICTMENT AND WE ASK FOR A COPY IT TO LOOK INTO IT.<sup>32</sup> BY COURT IT IS NOT NECESSARY TO HAVE HIM ARRAIGNED. COURT DO YOU WISH IT READ CAREY YES SIR WOULD LIKE TO HAVE IT READ. BISHOP I WOULD LIKE TO KNOW BY WHAT RULE INDICTMENT CAN BE READ BEFORE HE HAS BEEN NOTIFIED OF THE INDICTMENT. HOGE WE WISH TO HAVE COPY OF INDICTMENT BEFORE IT IS READ IF WE GET COPY WE PROBABLY MAY BE READY TOMORROW MORNING WHEN WE CAN MAKE ANSWER TO IT.</p>		<p>[space]</p>
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32. This is the first time the defense has seen the joint indictment.

**RT**

**RS**

**BT**

**PS**

	<p>CAREY SUPPOSE GENTLEMEN CAN GET COPY ANY TIME IF THEY SEE FIT TO. BY COURT IF THE CHARGE IS MURDER IN FIRST DEGREE /[?] ALWAYS REQUIRE THEM TO HAVE COPY SO THEY MAY BE READY TO PLEAD. BY <b>SUTHERLAND TO COURT</b> SUTHERLAND IF YOUR HONOR PLEASE I AM COUNSEL IN CASE AGAINST DAME IT HAS BEEN ANNOUNCED THAT THE CASE AGAINST LEE WOULD BE TRIED AND IT WAS EXPECTED THAT TRIAL WILL PROCEED FROM TODAY. IT IS EVIDENT NO OTHER TRIAL INVOLVING SAME TRANSACTION CAN OCCUR AT THE PRESENT</p>		<p>IF YOUR HONOR PLEASE I AM COUNSEL IN THE CASE AGAINST MR. WILL DAME IT HAS BEEN ANNOUNCED THAT THE CASE AGAINST LEE WILL BE TRIED AND IT IS EXPECTED THAT THAT TRIAL WILL PROCEED FROM TODAY [<i>space</i>] IT IS EVIDENT THAT NO OTHER TRIAL INVOLVING THE SAME TRANSACTION CAN OCCUR AT THE PRESENT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>[<i>corner of page missing</i>] TERM[?].  I HAVE LOOKED OVER THE INDICTMENT IN THE CASE AND I FIND A FATAL DEFECT IN IT IT WAS MY INTENTION TO OVERLOOK THAT DEFECT</p> <p>PROCEED TO TRIAL [<i>corner of page missing</i>]  THAT THE PARTY SHOULD BE ACTED UPON TESTIMONY RATHER THAN TAKE ADVANTAGE OF ANY DEFECT IN THE INDICTMENT. I HAVE WAITED UNTIL IT HAS BECOME CERTAINTY <sup>33</sup> HE CAN'T HAVE TRIAL AT THE PRESENT TERM AND I THEREFORE BEG LEAVE TO BRING TO YOUR HONOR'S ATTENTION THIS FATAL</p>		<p>TERM  I HAVE LOOKED OVER THE INDICTMENT IN THE CASE AND I FIND A FATAL DEFECT IN IT IT WAS MY INTENTION TO OVERLOOK THAT DEFECT AND TO PROCEED TO TRIAL PREFER</p> <p>THAT THE PARTY SHOULD BE ACTED UPON THE TESTIMONY RATHER THAN TO TAKE ADVANTAGE OF ANY DEFECT IN</p> <p>INDICTMENT I HAVE WAITED UNTIL IT HAS BECOME A CERTAINTY THAT HE CAN'T HAVE A TRIAL AT THE PRESENT TERM I THEREFORE BEG LEAVE TO BRING TO YOUR HONOR'S ATTENTION THIS FATAL</p>
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33. Each of the following words is written multiple times across the top of the page: THEREFORE, I HAVE, REFER.

**RT**

**RS**

**BT**

**PS**

	<p>DEFECT THE BARE MOTION OF <i>IT</i>[?] WILL INDUCE YOUR HONOR TO QUASH IT.</p> <p>AN ARREST OF JUDGMENT AND WHICH THEREFORE HAS NOT BEEN WAIVED BY PEOPLE THE CRIME IS NOT ALLEGED TO HAVE BEEN COMMITTED IN THIS TERRITORY, NOR THIS DISTRICT NOR IN ANY COUNTY. I TAKE IT I NEED {NOT}<sup>i</sup> READ AUTHORITIES UPON THE POINT. THAT AN INDICTMENT WHICH DOES NOT STATE THE LOCUS OF THE CRIME AND</p> <p>COMMITTED THIS {WITHIN THE}<sup>i</sup> JURISDICTION OF THE COURT HAS FATAL DEFECT</p>		<p>DEFECT [<i>space</i>] IT IS AN OBJECTION WHICH GOES TO THE JURISDICTION WHICH HAS GIVEN AN ARREST OF JUDGMENT <sup>[[2]]</sup> AND WHICH THEREFORE [<i>space</i>]</p> <p>THE CRIME IS NOT ALLEGED TO HAVE BEEN COMMITTED IN THIS TERRITORY NOR IN THIS DISTRICT NOR IN ANY COUNTY [<i>space</i>] I TAKE IT THAT I NEED NOT READ AUTHORITIES UPON THE POINT THAT AN INDICTMENT WHICH DOES NOT STATE THE LOCUS OF THE CRIME AND THAT IT WAS COMMITTED WITHIN THE JURISDICTION OF THE COURT IS FATALY DEFECTIVE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IF YOUR HONOR HAS ANY DOUBT UPON IT THE AUTHORITIES HERE ARE CLEAR AND COGENT AND UNANIMOUS.</p> <p>INDICTMENT STATES CRIME WAS COMMITTED IN MOUNTAIN MEADOW VALLEY WITHOUT ANY OTHER DESIGNATION OF PLACE BUT <i>YOURSELF</i>[?] HAVE SAID IF PROCEED UNDER ANY STATUTE WE MUST BE WHEREVER IT WAS COMMITTED THERE YOUR HONOR CAN'T TAKE JUDICIAL NOTICE MOUNTAIN MEADOW VALLEY IS EXCLUSIVELY ANY PART OF IT IN THE TERRITORY OF UTAH. UNDER REGULATION</p>		<p>[<i>space</i>] IF YOUR HONOR HAS ANY DOUBT UPON IT THE AUTHORITIES ARE HERE CLEAR COGENT AND UNANIMOUS THE INDICTMENT STATES THAT THE CRIME WAS COMMITTED IN MOUNTAIN MEADOW VALLEY BUT WITHOUT ANY OTHER DESIGNATION OF PLACE</p> <p>AND YOUR HONOR CAN'T TAKE JUDICIAL NOTICE THAT MOUNTAIN MEADOW IS EXCLUSIVELY OR ANY PART OF IT IN</p> <p>UTAH [<i>space</i>] IT IS NOT A PLACE WHICH COMES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IN ANY PUBLIC LAW I WILL THEREFORE <i>WE SAY</i>[?] THAT THERE IT IS A FATAL DEFECT I WILL REFER TO THE AUTHORITIES <i>IF</i>[?] COUNSEL ON THE OTHER SIDE HAVE ANY DESIRE DISCUSS THAT QUESTION.</p> <p>BY CAREY I WILL MAKE A STATEMENT. COURT PLEASE INDICTMENT HAS BEEN READ AS I HAVE SUGGESTED THAT INDICTMENT ALSO HELD MR. DAME I PRESUME WHEN WE COME TO THE TRIAL THAT MR. DAME WILL ALSO BE TRIED UPON THAT INDICTMENT INSTEAD OF THE ONE HE SPEAKS OF SUTHERLAND IF I UNDERSTAND COUNSEL</p>		<p>IN ANY PUBLIC LAW AND THEREFORE AS WE SAY IT IS A FATAL DEFECT [<i>space</i>] I WILL REFER TO THE AUTHORITIES IF COUNSEL ON THE OTHER SIDE HAVE ANY DESIRE TO DISCUSS THE QUESTION OR IF YOUR HONOR HAS ANY DESIRE TO HEAR IT [<i>space</i>] CAREY [<i>space</i>] IF THE COURT PLEASE</p> <p>WE HAVE INDICTMENT ALSO [<i>space</i>] I PRESUME THAT WHEN WE COME TO THE TRIAL THAT MR. DAME WILL ALSO BE TRIED UPON THAT INDICTMENT INSTEAD OF THE ONE HE SPEAKS OF [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ARIGHT HE  CONFESSES THE  DEFECT IN THIS  INDICTMENT MY  MOTION IS NOT  FOR THE  DISCHARGE OF  MR. DAME OR  TO QUASH THIS  INDICTMENT.  IF HE IS TO BE  TRIED GOOD  FAITH  REASONABLE  NOTICE TO THE  ACCUSED  <i>MERE/SOME</i>[?]  SENSE OF  FAIRNESS IT  SEEMS TO ME  OUGHT TO  HAVE  PROMPTED  GOVERNMENT  ATTORNEY TO  GIVE US SOME  INTIMATION OF  THE REAL  INDICTMENT  ON WHICH  MR. DAME WAS  EXPECTED TO  BE TRIED. IT  WAS  ANNOUNCED  WEEK AGO  YOUR HONOR  THE CASE  AGAINST <b>W H</b>  DAME AND THE  CASE AGAINST  JOHN D LEE</p>		<p>HE  CONFESSES THE  DEFECT IN THIS  INDICTMENT  <i>M</i>[?] [<i>space</i>] DO  NOT CONFESS  ANYTHING  [<i>space</i>]</p> <p>◀SUTHERLAND▶  IF HE IS TO BE<sup>34</sup>  TRIED GOOD  FAITH  REASONABLE  NOTICE TO THE  ACCUSED A  MERE  SENSE OF  FAIRNESS</p> <p>OUGHT TO  HAVE  PROMPTED THE  GOVERNMENT  ATTORNEY TO  GIVE US SOME  INTIMATION OF  THE REAL  INDICTMENT  UPON WHICH  MR. DAME WAS  TO  BE TRIED IT  WAS  ANNOUNCED A  WEEK AGO  YOUR HONOR  THAT THE CASE  AGAINST  DAME  [[3]] AND  LEE</p>
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34. "TO BE" was apparently added later.

**RT**

**RS**

**BT**

**PS**

	<p>SHOULD BE TRIED THIS WEEK. DID HE MOTION THIS BECAUSE HE GOES ON SUPPOSING INDICTMENT WHICH MY <i>MOTION</i>[?] ALLUDES OR DOES HE NOW REFER TO THE INDICTMENT WHICH HAS NEVER BEEN MADE PUBLIC. I THINK I HAVE A RIGHT TO COMPLAIN BEHALF OF THE DEFENDANT</p> <p>OF THE INTENTION TO PRESS INTO A TRIAL WITHOUT ANY PREPARATION. THIS INDICTMENT HAS BEEN THE ONLY PRETEXT OF THE DEFENDANT'S IMPRISONMENT FOR 8 MONTHS. HE IS LOOKING FORWARD TO THIS TRIAL ONLY COULD <i>EVERYBODY</i>[?] OBTAIN A TRIAL LEE'S</p>		<p>SHOULD BE TRIED THIS WEEK DID HE MOTION THIS BECAUSE</p> <p>OR DOES HE NOW REFER TO THE INDICTMENT WHICH HAS NEVER BEEN MADE PUBLIC [space] I THINK I HAVE A RIGHT TO COMPLAIN ON BEHALF OF THE INDICTMENT AND OF THE INTENTION TO PRESS INTO A TRIAL WITHOUT ANY PREPARATION THIS INDICTMENT HAS BEEN THE ONLY PRETENSE FOR THE IMPRISONMENT OF DEFENDANT FOR 8 MONTHS [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>INDICTMENT WHICH COUNSEL PRESUMES TO —[?] IS THAT</p> <p>WHICH HAS BEEN PENDING HERE ALL THAT TIME AND THAT WITHHELD FROM <sup>[4]</sup> OUR KNOWLEDGE AND</p> <p>IS EXPECTED TO BRING MR. DAME TO TRIAL ON THIS TRIAL THIS IS SO EXPEDIENT AND VITAL <i>WITH</i>[?] US. [space] IT IS NO PART OF THE POWERS OF THE GOVERNMENT TO HAVE SIMPLE PRETEXT FOR PROPERLY IMPRISONMENT BEFORE TRIAL.</p> <p>WHY HAS HE NOT MADE THAT INDICTMENT</p>		<p>IS THAT THE INDICTMENT WHICH HAS BEEN PENDING HERE DURING ALL THAT TIME AND HAS BEEN WITHHELD FROM OUR KNOWLEDGE AND IS IT THE INDICTMENT UPON WHICH HE IS EXPECTED TO BRING MR. DAME TO TRIAL [space]</p> <p>I SUPPOSE IT IS NOT ANY PART OF THE GOVERNMENT TO [space]</p> <p>IF HE HAD INTENDED <del>HIM</del> TO BRING HIM TO TRIAL DURING THIS TERM AND</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PUBLIC ANNOUNCED 'EM TO THE PRISONER'S COUNSEL GIVE HIM SOME OPPORTUNITY TO MAKE THE PREPARATIONS FOR THIS TRIAL AND WOULD PLEDGE THAT THIS INDICTMENT TO WHICH MY MOTION ALLUDES WHICH SHARES THEM WITH THAT ONLY WHEN ONE <i>TERM</i>[?] ARRIVES ONE MAN WILL EXPECT TRIAL AND WHICH HE KNEW NOW ALLUDES HE WILL NOT ABANDON THAT SIMPLY AS A PRETENSE FOR IMPRISONMENT BEFORE TRIAL I SAY YOUR HONOR TO QUASH THIS INDICTMENT. WOULD WHATEVER OTHER CAUSE THEY HAVE</p>		<p>ANNOUNCED IT TO THE PRISONER'S COUNSEL GIVE HIM SOME OPPORTUNITY FOR PREPARATION DURING THIS TRIAL [<i>space</i>] WE PLEDGE IF THIS IS THE INDICTMENT TO WHICH MY <i>MATTER</i>[?] INDICTMENT THAT SHARES<sup>35</sup> THEM WITH THAT WHEN ANOTHER TERM ARRIVES WHEN WE MAY [<i>space</i>]</p> <p>THAT HE WILL NOT ABANDON THAT AND HAVE SOME 3RD CHARGE SIMPLY AS SOME [<i>space</i>] ASK YOUR HONOR TO QUASH THIS INDICTMENT</p> <p>WHATEVER OTHER CAUSES THEY HAVE TO</p>
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35. "NS" added later rendered the word "ASSURANCES".

**RT**

**RS**

**BT**

**PS**

	<p>WE'LL CONSIDER IN</p> <p>CONNECTION. CAREY I HAVE SUPPOSITION UNTIL <i>THIS DAY AND TOO</i>[?] MR. DAME AND LEE WOULD BE TRIED ON SEPARATE INDICTMENTS REASON <del>IT HAS BEEN</del> OTHER HOWEVER HAS NOT BEEN PUBLIC</p> <p>THERE ARE SO MANY INDICTED IN IT THAT HAVE NOT BEEN ARRESTED. ON EXAMINATION OF WITNESSES WE THINK EQUAL AND EXACT JUSTICE CAN BE BETTER DONE BY TRYING CASE ON JOINT INDICTMENT RATHER THAN ON THE OTHER. SO FAR AS FIRST</p>		<p>IMPRISON MR. DAME WE'LL CONSIDER IN <i>THAT</i>[?] CONNECTION [space] CAREY I HAVE SUPPOSED THEY INTENDED IT AND TOO THAT MR. DAME AND LEE SHALL NOT [space]</p> <p>THE REASON THAT IT HAS NOT BEEN MADE PUBLIC [[4]]<sup>36</sup> IS THAT THERE ARE SO MANY INDICTED IN IT THAT HAVE NOT BEEN ARRESTED AND THE EXAMINATION OF THE WITNESSES WE THINK THAT ACCURATE AND EXACT JUSTICE CAN BE DONE BETTER BY TRYING THE CASE ON THE JOINT INDICTMENT RATHER THAN ON THE OTHER. [space]</p>
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36. There is a profile of a man with stubble smoking a pipe on the verso of page 4.

**RT**

**RS**

**BT**

**PS**

	<p>INDICTMENT IS CONCERNED I HAVE NOT EXAMINED THAT MYSELF BEFORE G/K[?] PASSED UPON IT. {BY}<sup>i</sup> COURT DO I UNDERSTAND</p> <p>PROSECUTION {TO}<sup>i</sup> SAY THEY INTEND TRY BOTH THESE PARTIES TOGETHER. CAREY NO SIR.</p> <p>SPICER YOUR HONOR PLEASE WE WISH INQUIRE INTENTION OF PROSECUTION INTENTION OF PROSECUTION WHETHER MR. LEE IS TO BE FROM THIS PENDING INDICTMENT OR THIS WHICH HAS COME TO LIGHT.</p> <p>BY COURT I SUPPOSE HIS OBJECT IS AS SOON AS {THE}<sup>i</sup> PARTIES ARE ARRAIGNED TO</p>		<p>JUDGE DO I UNDERSTAND THE PROSECUTION THAT THEY INTEND TO TRY BOTH THESE PARTIES TOGETHER [space] NO SIR PROPOSE TO TRY MR. LEE FIRST [space] SPICER [space]</p> <p>WHETHER MR. LEE IS TO BE TRIED ON THIS PENDING INDICTMENT OR THE NEW ONE THAT HAS JUST COME TO ME [space] COURT [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ENTER NOLLE PROSEQUI IN THE CASE. BY SUTHERLAND LET'S SEE ORIGINAL INDICTMENT. LET'S SEE ORIGINAL INDICTMENT THE JOINT ONE. CLERK HANDED SUTHERLAND THE <del>COPY</del> INDICTMENT. SPICER IF YOUR HONOR PLEASE I WOULD SUGGEST FURTHER <del>IF</del> IF IT IS INTENTION UNDER NOLLE OF WHICH MR. LEE HAS BEEN HELD LAST 6 MONTHS IT IS BETTER WE SHOULD KNOW IT AT ONCE A LITTLE TIME GIVEN PRIOR FOR IT. BY COURT YOU LOOK AT INDICTMENT IF IT IS NECESSARY TO HAVE TIME COURT WILL GIVE TIME.</p> <p>COURT DOESN'T</p>		<p>SUTHERLAND</p> <p>LET'S SEE THE ORIGINAL JOINT INDICTMENT [space]</p> <p>SPICER WE NOTICE THE [space]</p> <p>NOLLE IN THIS INDICTMENT WHICH IS <i>TENDING</i>[?] UPON WHICH [space] IT IS BETTER THAT WE SHOULD KNOW IT AT ONCE THAT WE MAY BE FURNISHED WITH THIS SECOND INDICTMENT AND LITTLE TIME GIVEN US TO PREPARE FOR IT WE HAVE NO KNOWLEDGE OF IT <del>IF THE</del>. [space] COURT [space] DO NOT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WANT TO FORCE THESE MATTERS BUT WISH</p> <p>ALL PARTIES <del>BE</del> TO BE READY. [space]<sup>[5]</sup> SUTHERLAND YOUR HONOR PLEASE WE DESIRE TO HAVE UNTIL TOMORROW MORNING EXAMINE THIS INDICTMENT</p> <p>DETERMINE WHAT PLEAS TO MAKE TO IT. COURT COPIES WILL BE FURNISHED TO YOU THIS AFTERNOON. SUTHERLAND WE SHOULD PREFER ORIGINAL. BY SPICER HE IS SPEAKING FOR MR. LEE AS WELL AS FOR DEFENSE. BISHOP I DO NOT KNOW</p> <p>RECORD SHOWS</p>		<p>PROPOSE TO FORCE YOU BUT WANT THEM TO BE TRIED AS SOON AS POSSIBLE THAT BOTH PARTIES BE FULLY READY</p> <p>SUTHERLAND [space] IF YOUR HONOR PLEASE [space] WE DESIRE TO HAVE UNTIL TOMORROW MORNING TO EXAMINE THIS INDICTMENT AND TO DETERMINE WHAT PLEA TO MAKE TO IT † <del>SUPPOSE IN A</del> MINUTE[?]-[space]</p> <p>BISHOP I DO NOT KNOW THAT THE RECORD SHOWS THAT THE RECORD SHOWS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THAT MR. BATES AND SUTHERLAND</p> <p>WAS ATTORNEYS FOR LEE I WISH TO HAVE RECORD SHOW BATES AND SUTHERLAND SHOW THEY ARE ATTORNEYS IN DEFENSE OF JOHN D. LEE. I BELIEVE RECORD SHOWS IT AND THERE HAS BEEN SOME TALK BUT IF NOT I WISH IT TO SHOW IT. BY COURT IF THERE IS NO FURTHER MOTION WE'LL ADJOURN COURT UNTIL TOMORROW MORNING TEN O'CLOCK. PROSECUTION I THINK THERE ARE SOME DEMURRERS THAT WILL HOLD ATTENTION THIS AFTERNOON. [space] TAKE RECESS UNTIL O'CLOCK. [space]</p>	<p>[1]</p>	<p>THAT MR. BATES AND SUTHERLAND SHOWS THAT AND THEY ARE ATTORNEYS FOR JOHN D. LEE [space].</p> <p>BATES AND SUTHERLAND NOTED AS ATTORNEYS FOR THE DEFENSE OF[?] LEE. INQUIRE TO ALL THESE MATTERS. YES SIR [space]</p> <p>RECESS UNTIL TWO O'CLOCK.</p>
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**RT**

**RS**

**BT**

**PS**

	<p><b>WEDNESDAY JULY 21 1875. 10 AM</b></p> <p>TWELVE MINUTES PAST TEN JUDGE BOREMAN CAME INTO COURT. BY COURT ANY PAPERS TO BE FILED THIS MORNING OF ATTORNEYS. ANY EX PARTE MOTIONS. <b>o</b> PROSECUTION <b>&lt;COURT&gt;</b></p> <p>READY IN</p> <p>CASE OF LEE</p>	<p><b>FIRST LEE TRIAL (BOOK 1) IN THE DISTRICT COURT FOR THE SECOND JUDICIAL DISTRICT OF THE TERRITORY OF UTAH. PEOPLE OF THE TERRITORY OF UTAH VS. JOHN D. LEE. BEFORE HON. J. S. BOREMAN AND JURY.</b></p> <p>WEDNESDAY, JULY 21ST, 1875. A. M.</p> <p>JUDGE BOREMAN</p> <p>ASKED THE PROSECUTION AND DEFENSE IF THEY WERE READY FOR TRIAL IN THE LEE CASE. COUNSEL</p>	<p><i>[[5]]</i> <del><b>TUESDAY</b></del> <b>WEDNESDAY</b> <b>22/75</b><sup>37</sup> [<i>space</i>]</p>
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37. This is incorrectly identified as the 22nd of July.

**RT**

**RS**

**BT**

**PS**

	<p>A YES SIR.</p> <p>IS THE DEFENSE READY BY SUTHERLAND WE DESIRE YOUR HONOR PLEASE <i>MOTION</i>[?] MADE YESTERDAY MORNING REGARD TO INDICTMENT THERE WAS MOTION MADE IN FAVOR OF DAME AND DAME IS PARTY IN THIS INDICTMENT BY COURT I UNDERSTAND DAME IS NOT TO BE TRIED AT THIS TERM BY CAREY NO SIR HE IS NOT TO BE.</p> <p>BY SUTHERLAND</p>	<p>REPLIED "YES; AND <del>JUDGE MR</del> <b>J. G.</b> SUTHERLAND <b>OF COUNSEL</b> <b>THE DEFENCE</b> <b>ASKED</b></p> <p>FOR ACTION UPON HIS MOTION OF YESTERDAY IN THE DAME CASE.</p> <p>THE <del>JUDGE</del> <b>COURT</b> ANNOUNCED THAT DAME WAS NOT TO BE TRIED NOW.</p> <p><b>J. G.</b> SUTHERLAND <b>OF COUNSEL</b> <b>FOR</b> <b>DEFENDANT:</b> IT IS AN IMPORTANT MOTION AND SHOULD BE</p>	<p>[<i>space</i>] IF I UNDERSTAND IT RIGHT DAME IS NOT TO BE TRIED NOW [<i>space</i>] CAREY NO [<i>space</i>] <b>≪COURT≧</b> I UNDERSTAND THEM <i>BECAUSE</i>[?] LEE WAS <i>GETTING ON</i>[?] [<i>space</i>] DO NOT SUPPOSE IT MADE MUCH OF [<i>space</i>] <i>GO HOME</i>[?] YOUR HONOR AS THAT MOTION SHOULD BE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IT IS VERY DESIRABLE SINCE INDICTMENT COVER SAME TRANSACTION THAT ALL SHOULD NOT BE COMBINED</p> <p>TAKE PLACE UPON 2 INDICTMENTS</p> <p>WE DO NOT PROPOSE ARRAIGN MR. DAME UNDER SAME INDICTMENT. SUTHERLAND IF TRIAL IS TO TAKE PLACE ON THIS JOINT INDICTMENT THAT THEY ENTER NOLLE ON THE OTHER. BY COURT BEFORE TRIAL TAKES PLACE THEY MAY DO THAT OR NOT.</p> <p>{BY}<sup>i</sup> CAREY</p>	<p>DECIDED NOW.</p> <p>I UNDERSTAND THAT THE INDICTMENTS COVER THE SAME TRANSACTION,</p>	<p>DETERMINED [space] IT IS VERY DESIRABLE SINCE THE INDICTMENTS COVER THE SAME TRANSACTIONS THAT THEY ALL SHOULD NOT BE COMBINED AND ARRAIGNMENTS TAKE PLACE UPON TWO INDICTMENTS [space] COURT WE DO NOT PROPOSE TO ARRAIGN MR. DAME SOON[?] [space]</p> <p>WE DESIRE IF THE TRIAL IS TO TAKE PLACE ON THIS JOINT INDICTMENT THAT THEY ENTER A NOLLE UPON THE OTHER [space] COURT BEFORE THE TRIAL TAKES PLACE THEY CAN DO THAT OR NOT JUST AS THEY PLEASE. [space] COURT IT DON'T MAKE ANY DIFFERENCE BECAUSE[?]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WILL STAND UNTIL THE OTHER PARTIES ARE ARRAIGNED IF YOU PLEASE. BY COURT FURTHER I UNDERSTAND THIS IS THE TRIAL OF MR. LEE. SUTHERLAND SO FAR AS MR. LEE IS CONCERNED —[?]. WE MAY HAVE SOMETHING TO SAY IN PROCEEDING</p> <p>WITH THIS INDICTMENT AGAINST LEE ALONE. {AND}<sup>i</sup> THIS INDICTMENT IS FOUND AGAINST SEVERAL PERSONS AND 3 OF THEM ARE IN CUSTODY THERE IS A COUNT FOR A CONSPIRACY IN THIS INDICTMENT AND WE INSIST THEY HAVE NO RIGHT TO PROCEED TO TRIAL AGAINST</p>	<p>AND WE MAY HAVE SOMETHING TO SAY ABOUT THIS</p> <p>INDICTMENT AGAINST LEE.</p>	<p>THIS IS TRIAL OF MR. LEE [space]</p> <p>SO FAR AS MR. LEE IS ARRAIGNED WOULD NOT BUT WE MAY HAVE SOMETHING TO SAY IN RESPECT TO PROCEEDING TO TRIAL ON THIS INDICTMENT AGAINST LEE ALONE [space] THIS INDICTMENT IS FOUND AGAINST SEVERAL PERSONS AND 3 OF THEM ARE IN CUSTODY AND THERE IS A COUNT FOR CONSPIRACY IN THIS INDICTMENT AND WE INSIST THAT THEY HAVE NO RIGHT TO PROCEED TO TRIAL AGAINST</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ONE AND NOT AGAINST ALL. BY COURT IF THAT QUESTION SHOULD GO UP IT WILL BE A DIFFERENT QUESTION. SUTHERLAND</p> <p>I ASK THE QUESTION WHICH WAS DISCUSSED YESTERDAY BE NOW DETERMINED. COURT IS NOT PREPARED TO DETERMINE HIS QUESTION NOW UNTIL THIS OTHER MATTER IS DISPOSED OF. SPICER THEN AGAIN YOUR HONOR IN RELATION WHOLE MATTER LN/LS/ALONE[?] WE ARE DESIROUS TO KNOW</p> <p>WHAT PROSECUTION INTEND TO DO <sup>[6]</sup> ABOUT INDICTMENT</p>	<p><u>COURT:</u> WE ARE NOT PREPARED TO SETTLE THAT MATTER NOW TILL OTHER THING ARE DISPOSED OF. <b>WELLS SPICER OF COUNSEL FOR DEFENDANT—</b></p> <p>WANTED TO KNOW</p> <p>WHAT THE PROSECUTION INTENDED TO DO IN RELATION TO THE NEW INDICTMENT.</p>	<p>ONE AND NOT AGAINST ALL [space] COURT IF THAT QUESTION SHOULD GO UP IT WOULD BE A DIFFERENT THING [space] SUTHERLAND IT IS FOR THAT REASON THAT I ASK THAT QUESTION</p> <p>BE</p> <p>DETERMINED [space] COURT DO/DID[?] NOT CONSIDER IT NECESSARY</p> <p>UNTIL THIS OTHER MATTER WAS DISPOSED OF. [space] SPICER [space]</p> <p>IN RELATION TO THE WHOLE MATTER LN/LS/ALONE[?] WE ARE DESIROUS OF <sup>[6]</sup> HAVING IT UNDERSTOOD WHAT THE PROSECUTION INTEND TO DO WITH THIS INDICTMENT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THEY BROUGHT INTO COURT YESTERDAY MORNING IF THEY</p> <p>ARE GOING TO PROCEED FROM ONE OR THE OTHER.</p> <p>BY COURT I UNDERSTAND THEY INTEND TO PROCEED ON THE OTHER.</p> <p>BASKIN</p> <p>THERE IS NOTHING TO SHOW.</p>	<p><b>R.N. BASKIN ASSISTANT U.S. DISTRICT ATTORNEY, FOR PROSECUTION.:</b></p> <p>THERE IS NOTHING TO SHOW THAT THERE IS A CONNECTION BETWEEN THE</p> <p>INDICTMENTS.</p>	<p>WE WERE BROUGHT INTO COURT UPON</p> <p>IF THE PROSECUTION INTEND TO PROCEED UNDER THIS NEW ONE OR <i>STILL[?]</i> <i>BUMP[?]</i> TO THE OTHER ONE <i>[space]</i> THEY PROPOSE TO PROCEED UPON THE ONE BROUGHT FORTH YESTERDAY BASKIN</p> <p>THERE IS NOTHING TO SHOW TO THIS COURT THAT THERE IS <del>NOTHING</del> <i>ANYTHING/NOTH ING[?]</i> TO ACQUIT THEMSELVES OF INDICTMENTS NOTHING TO SHOW THAT THEY HAVE ANY NECESSARY CONNECTION</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BY COURT I GLANCED OVER THIS INDICTMENT ONLY YESTERDAY. [space] BASKIN I UNDERSTAND</p> <p>INDICTMENT PRESENTED YESTERDAY WILL BE PROCEEDED WITH TODAY.</p> <p>WE ARE READY WHEN COURT DECIDES TO PROCEED.</p> <p>WE DESIRE TO ARRAIGN LEE ON THE INDICTMENT</p> <p>PRESENTED YESTERDAY THEY MAY PLEAD OR TAKE SUCH COURSE AS THEY SEE PROPER. SPICER COURT WILL INDULGE ME MOMENT IN REPLY TO THAT WE NOW IN</p>	<p><b>WELLS SPICER:</b></p> <p>THIS IS NOW</p>	<p>[space] COURT I NEVER READ THIS INDICTMENT [space]</p> <p>BASKIN I UNDERSTAND THE QUESTION TO BE IS UPON THE INDICTMENT</p> <p>YESTERDAY <i>ONE/WHEN</i>[?] THE GENTLEMAN PRESENT HAD NO LEGAL SHOW FOR WE ARE READY THEN TO <i>MEET</i> <i>IT/OUT</i>[?] BUT THE QUESTION NOW IS ON THE INDICTMENT WE DESIRE TO ARRAIGN LEE ON THE INDICTMENT THAT WAS PRESENTED YESTERDAY AND IF THEY PLEAD AND TAKE SUCH SUPPOSE —[?] THINK PROPER [space] SPICER [space] THIS UNDERSTANDIN G THAT WE ARE NOW</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THE SECOND WEEK OF THIS THING</p> <p>PROPER BUSINESS <i>NOT ONLY</i>[?] THIS</p> <p>COURT WAS TO TRY LEE UPON THE INDICTMENT FOR WHICH HE HAD THEN BEEN HELD FOR THE LAST 8 MONTHS. LAST WEEK WE CAME INTO COURT IT WAS ENTERED UPON RECORD THIS CASE PEOPLE AGAINST JOHN D LEE</p> <p>SET FOR</p>	<p>THE SECOND WEEK OF THIS TERM OF COURT. WE HAVE UNDERSTOOD —AND THE PUBLIC GENERALLY HAVE UNDERSTOOD THAT THE TRAIL OF JOHN D. LEE WOULD BE PROCEEDED WITH; IT WAS SET A WEEK AGO AND HAS BEEN POSTPONED SEVERAL TIMES.</p>	<p>ON THE SECOND WEEK OF THIS COURT AND THE</p> <p>PROPER BUSINESS OF THIS</p> <p>COURT WAS TO TRY JOHN D. LEE UPON THE INDICTMENT UPON WHICH HE HAD BEEN HERE FOR 8 MONTHS [space]</p> <p>WAS ENTERED ON RECORD THAT THIS CASE PEOPLE AGAINST JOHN D. LEE SHOULD BE TAKEN OUT AND SET FOR</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TRIAL.</p> <p>WE CAME INTO COURT FOR PURPOSE OF HAVING THAT TRIAL PROCEED UPON THAT INDICTMENT</p> <p>INDICTMENT UNDER WHICH HE HAD BEEN ARRESTED AND HELD FOR A LONG TIME PREPARED FOR TRIAL THEN THE NEXT MORNING TUESDAY WE CAME INTO COURT AND THERE IS ENTIRE CHANGE OF EVENTS A NEW INDICTMENT IS PRESENTED TO US WE WANT TO KNOW IF WE ARE GOING TO</p>	<p>WE CAME HERE FOR TRIAL THIS MORNING, AND WE WANT THE TRIAL TO PROCEED.</p> <p>WE WANT TO KNOW WHETHER WE ARE TO</p>	<p>TRIAL ON MONDAY OF THIS WEEK MONDAY IMMEDIATELY THROWN OVER UNTIL NEXT MORNING [space] WE CAME INTO COURT FOR THE PURPOSE OF HAVING THE TRIAL PROCEED UPON THAT INDICTMENT [space] THE INDICTMENT UNDER WHICH HE HAD BEEN ARRESTED AND HAD</p> <p>PREPARED FOR THE TRIAL [space] NEXT MORNING</p> <p>WE CAME INTO COURT AND THERE IS AN ENTIRE CHANGE OF THE TO THE PROSECUTION[?] [space] THIS MORNING WE WANT TO KNOW <sup>[[7]]</sup><sup>38</sup> WHETHER WE ARE GOING TO</p>
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38. A man's profile drawn labeled "**PROFILE OF GEORGE CAESAR BATES**" in longhand with "THEN WHAT WAS DONE WITH THE RECORD OF EVIDENCE" on the verso of page 7.

**RT**

**RS**

**BT**

**PS**

	<p>BE TRIED ON THAT INDICTMENT OR THE OTHER</p> <p>WE ARE READY FOR EITHER WE ARE PREPARED TO TAKE PLACE AND ACT. BASKIN WANT THE GENTLEMAN PLEAD THEN WE ARE READY</p> <p>TO PROCEED TO TRIAL. BY COURT WE HAVE NEVER SET <i>THEIR TIME</i>[?] FOR TRIAL. COURT CONSENTED AND WOULD IF ARRANGEMENT S COULD BE MADE. YOU PLEAD YET FOR CONTINUANCE. BASKIN</p> <p>GENTLEMEN PRONOUNCE THEY ARE READY TO PROCEED TO</p>	<p>BE TRIAED UPON THE OLD OR</p> <p>NEW INDICTMENT.</p> <p>WE ARE READY FOR EITHER.</p> <p>COURT: YOU ARE MISTAKEN IN SAYING THAT I SET THE CASE FOR TRIAL; IT WAS CONTINUED BY CONSENT OF COUNSEL.</p>	<p>BE TRIED ON THAT INDICTMENT OR WHETHER THIS NEW INDICTMENT IS THE ONE THAT WE ARE TO BE HERE UPON THIS TIME [space] WE ARE READY FOR EITHER WE WANT IT DETERMINED [space] BASKIN</p> <p>WE ARE READY ON THIS NEW INDICTMENT TO GO TO TRIAL [space] COURT [space] THE COURT HAS NOT SET ANY TIME</p> <p>CONSENTED TO DIFFERENT ARRANGEMENT SPICER <i>TO/BUT</i>[?] [space] COURT HAD NO OBJECTIONS [space] AND [space] GENTLEMEN ANNOUNCED THEMSELVES [space] WE ASK [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TRIAL.</p> <p>BY COURT</p> <p>ALL THESE MOTIONS</p> <p>MUST BE REDUCED TO WRITING.</p> <p>MOTION NOT REDUCED TO WRITING YESTERDAY I DID NOT PASS ON IT. BASKIN GENTLEMEN HAVE ANNOUNCED THEMSELVES READY FOR TRIAL AND WE ARE READY ALSO. BY BISHOP WE ARE LABORING UNDER MISPERCEPTION BY PROSECUTION HOWEVER WE HAVE NEVER SAID WE WERE READY FOR TRIAL UNTIL THE FIRST IS DISPOSED OF.</p>	<p>SOME FURTHER MOTIONS WERE OFFERED WHEN THE COURT ANNOUNCED THAT MOTIONS</p> <p>MUST BE IN WRITING OR HE COULD NOT NOTICE THEM.</p>	<p>I WOULD STATE ALL MOTIONS MADE IN THIS CASE THAT MUST BE REDUCED TO WRITING [space]</p> <p>ALL MOTIONS [space] MOTION NOT BE REDUCED TO WRITING [space]</p> <p>BASKIN THE GENTLEMEN</p> <p>READY TO HAVE THIS CASE TRIED [space]</p> <p>WE ARE LABORING UNDER A MISPERCEPTION [space] WE DO NOT CONSIDER THAT WE EVER SAID WE WERE READY TO HAVE TRIAL UNTIL THE FIRST WAS DISPOSED OF. I</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BY COURT SPICER SAID HE WAS READY TO GO ON EITHER OF THEM <i>BUT</i> <i>WANTS[?]</i> THE FIRST ONE TO BE DISPOSED OF FIRST.</p> <p>ONLY QUESTION BEFORE GO IS THAT LEE CASE WAS SET FOR TRIAL ON SECOND INDICTMENT IF YOU ARE READY TO PLEAD FOR THAT INDICTMENT IF THEY ARE INCONSISTENT</p> <p>LET IT BE SHOWN. ONLY CONSIDER SAY ONE THING WAS CONSIDERED AS</p>		<p>DO NOT CONSIDER THE SECOND INDICTMENT BEFORE THE COURT YET</p> <p><i>[space]</i> YOU ASK UNTIL THIS MORNING WHETHER YOU WOULD PLEAD OR NOT WE SAY THE ONLY QUESTION BEFORE THE COURT <i>[space]</i></p> <p>IF THE TWO INDICTMENTS ARE INCONSISTENT OR ANYTHING OF THAT KIND LET THESE THINGS BE SHOWN IN THE WAY THEY SHOULD BE <i>DONE[?]</i> <i>[space]</i></p>
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**RT**

**RS**

**BT**

**PS**

	<p>WAS THE OTHER.</p> <p>BY BISHOP I UNDERSTAND</p> <p>MATTER OF ARRAIGNMENT OF MR. LEE THEN THESE MOTIONS WILL GO UP PROPERLY IN ORDER. <sup>[7]</sup> BY COURT TO BISHOP ARE YOU PREPARED TO PLEAD YES SIR. BY COURT LET MR. LEE BE ARRAIGNED. BY CAREY COURT</p> <p>PLEASE THERE ARE 2[?] COUNTS IN THIS INDICTMENT AND WE ONLY WISH TO {HAVE HIM}<sup>i</sup> ARRAIGNED AND TRIED MR. LEE ON ONE COUNT.</p>	<p><sup>[2]</sup> HE THEN ORDERED LEE TO BE ARRAIGNED FOR TRIAL. W<sup>M</sup> CAREY U.S. DISTRICT ATTORNEY:</p> <p>WE WILL</p> <p>TRY LEE ON THE FIRST COUNT OF THE INDICTMENT, ONLY—NOT ON THE SECOND. WHEREUPON</p>	<p>COURT IS ONE/N[?] GOING TO TAKE THIS THING UP MORE/SOME[?] TIME. [space] I UNDERSTAND THAT THE QUESTION OF ARRAIGNMENT OF MR. LEE THEN THESE MOTIONS WERE [space] <del>WHETHER YOU</del> [space]</p> <p>COURT ARE YOU PREPARED TO PLEAD [space] YES SIR [space] COURT LET HIM BE ARRAIGNED</p> <p>CAREY</p> <p>WE ONLY WISH TO</p> <p>ARRAIGN MR. LEE ON FIRST COUNT [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>LEE STOOD UP AND WAS <del>ARRAIGNED</del></p> <p>INDICTMENT WAS READ TO HIM BY THE CLERK.<sup>39</sup> LEE STANDING UP ALL THE TIME INDICTMENT OF CONSPIRACY CHARGED HIM WITH BEING CONNECTED WITH OTHERS IN KILLING 58 PERSONS {BY CLERK}<sup>1</sup> TO THIS CHARGE DO YOU PLEAD GUILTY OR NOT GUILTY. LEE MY ATTORNEY WILL MAKE THE PLEA. HOGE</p> <p>YOUR HONOR PLEASE WE HAVE A PLEA IN ABATEMENT TO OFFER. WHICH HE READ. BY HOGE WE ASK</p>	<p>LEE AROSE AND CLERK, J. R. WILKINS LREAD THE FOLLOWING INDICTMENT AS FOLLOWS: [INDICTMENT FOLLOWS]<sup>40</sup></p> <p>[4 middle of page]</p> <p>IMMEDIATELY AFTER THE INDICTMENT HAD BEEN READ <b>E. D. HOGE, OF COUNSEL FOR DEFENCE</b> HOAG AROSE AND PRESENTED THE FOLLOWING PLEAS IN ABATEMENT:<sup>41</sup></p>	<p>[[8]]<sup>42</sup></p> <p>ARRAIGNED</p> <p>PLEAD NOT GUILTY [space]</p> <p>HOGE READ</p> <p>PLEAS IN ABATEMENT .</p>
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39. Multiple newspaper accounts concur with the reporters’ notes that Lee was arraigned on the first count of the indictment. The *Salt Lake Tribune* reported specifically that only the first count of the indictment was read, though apparently the first count was read from the “new” indictment, which included both counts. “Lee’s Trial,” *Salt Lake Tribune*, July 24, 1875.

40. For the full text of the original indictment, see *MMMCLP*, chapter 18, “Indictments and Introduction to Legal Proceedings.”

41. For the original pleas (dated July 21, 1875), see *MMMCLP*, chapter 27, “Legal Proceedings against John D. Lee.”

42. On the verso of page 8: BASKIN CAREY SUTHERLAND BATES SPICER.

**RT**

**RS**

**BT**

**PS**

<p>[begins pg 8]</p> <p>AFTER THE READING OF THE FOREGOING PLEAS CAREY</p> <p>SAID THAT THE PROSECUTION DESIRED TIME TO MAKE</p>	<p>TO HAVE THAT FILED COURT ORDERED IT TO BE FILED TO JUDGE CAREY PERHAPS WE HAD BETTER HAVE THAT REMARK FILED. PROSECUTION TALKING OVER LAW WITH EACH OTHER. TOMORROW. <i>SUMMONED</i>[?] LEE NONPLUSSED. BY CAREY <i>PARTY'S/PARTIES</i> [?] INDICTMENT ALONG MR. <i>WILKINS</i>[?]. BY COURT WHAT HAS THE PROSECUTION TO SAY.</p> <p>≪CAREY≫ COURT PLEASE <i>WELL</i>[?] WE WISH TO HAVE<sup>43</sup> FULL APPLICATION<sup>44</sup> IT WILL TAKE SOME LITTLE TIME TO PREPARE THEM</p>	<p>[8 middle of page]</p> <p>AFTER READING THE PLEAS, <b>W<sup>M</sup> CAREY U.S. DISTRICT ATTORNEY</b></p> <p>SAID THAT THE PROSECUTION DESIRED TIME TO MAKE</p>	<p>FILED [space]</p>
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43. Apparently added later.

44. Probable intent is "REPLICATIONS".

**RT**

**RS**

**BT**

**PS**

<p>REPLICATIONS,</p> <p>WHEREUPON THE COURT GRANTED THEM TILL TWO O’CLOCK P.M. TO WHICH TIME COURT TOOK A RECESS.</p> <p>[9] TWO O’CLOCK P.M. COURT MET AS PER</p>	<p>BY COURT CAN YOU DO IT BY TWELVE O’CLOCK BY CAREY WILL TRY TO DO SO COURT THAT WILL BE 3 HOURS ENOUGH YES SIR. IF THERE IS NO FURTHER MATTERS WILL TAKE RECESS BY COURT WILL TAKE RECESS UNTIL TWO O’CLOCK. [Bk 2 1]45 [page torn] <b>NO. [space] 2</b> <b>{BOOK 2}1</b> <b>WEDNESDAY</b> <b>JULY 21/75. PM</b> <b>CONTINUATION</b> <b>&amp; CON—[?]</b> [corner torn] <b>“NUNC PRO</b> <b>TUNC” PLEAS</b> <b>IN ABATEMENT</b> <b>—KEYES</b> <b>TESTIMONY A</b> <b>BENNETTS</b> <b>TESTIMONY</b> <b>COMMENCT</b> <b>KLIGENSMITH’</b> <b>S DIR EXAMIN.</b> 2 O’CLOCK SECOND JUDICIAL [corner</p>	<p>REPLICATIONS,</p> <p>WHEREUPON COURT GRANTED THEM TILL TWO P.M. TO WHICH TIME COURT TOOK A RECESS.</p> <p>COURT REASSEMBLED AT TWO P.M.</p>	<p>RECESS UNTIL TWO O’CLOCK [space]</p>
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45. The afternoon of Wednesday, July 21, is found at the beginning of Rogerson’s shorthand book 2. He likely forgot or misplaced notebook 1 in the afternoon and then returned to notebook 1 the next morning and continued until it was full. There are purple pencil transcription lines across each page through page 7. The page is in very poor condition, torn, smudged, dirty, and extremely difficult to read.

**RT**

**RS**

**BT**

**PS**

<p>ADJOURNMENT.</p> <p>CAREY FOR THE PROSECUTION PRESENTED</p> <p>A DEMURRER TO THE FIRST AND SECOND PLEAS IN ABATEMENT AND A REPLECATION TO THE THIRD.</p>	<p><i>torn</i>] FIFTEEN MINUTES PAST TWO JUDGE<sup>46</sup> BOREMAN CAME INTO COURT. MR. CAREY HANDED <del>BOREMAN</del> CLERK PAPER WHICH APPARENTLY WAS FILED IF THE COURT PLEASE I HAVE PREPARED DEMURRER ON THE FIRST SECOND PLEAS</p> <p>REPLICATION TO THE THIRD FILED THIS MORNING WHICH WILL READ. PROCEEDED READ WHEREUPON WILLIAM CAREY AS TO THE FIRST AND SECOND PLEAS MATTERS THEREIN CONTAINED SECOND FORM ARE NOT SUFFICIENT IN <i>PR/BR</i>[?] PRECLUD {ING}<sup>i</sup> SAID PEOPLE</p>	<p><b>W<sup>M</sup></b>  <b>CAREY U.S. DISTRICT ATTORNEY</b>  PRESENTED</p> <p>A DEMURER TO THE FIRST AND SECOND PLEAS IN ABATEMENT, AND A REPLICATION TO THE THIRD.</p>	<p>CAREY.</p> <p>IF THE COURT PLEASE I HAVE PREPARED DEMURRER TO THE 1ST AND 2</p> <p>AND REPLICATION TO THE THIRD  [space]</p> <p>READ [space]</p>
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46. Word apparently added later.

**RT**

**RS**

**BT**

**PS**

<p>JUDGE SUTHERLAND</p>	<p>FROM PROSECUTING SAID INDICTMENT SAID PEOPLE ARE NOT BOUND BY THE LAW OF THE LAND PROSECUTE THE SAME THEREFORE ON ACCOUNT OF INSUFFICIENT SAID PLEA IN THIS BEHALF <i>PRAYS</i>[?] JUDGMENT THAT SAID INDICTMENT MAY BE CONSIDERED GOOD AND THE SAID JOHN D. LEE BE MADE TO ANSWER THERE TO. SECOND PLEA SAID INDICTMENT BY REASON OF <i>NNGST/KNGST</i>/— [?] CAUSED <i>SAYS</i>[?] SAID INDICTMENT WE <i>REFER</i>[?] ETC. &amp; C BASKIN WE ARE READY AT ANY TIME &lt;GENTLEMAN WISH TO&gt; DISCUSS THIS. SUTHERLAND</p>	<p><b>J. G.</b> SUTHERLAND <b>ATTORNEY FOR</b></p>	
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**RT**

**RS**

**BT**

**PS**

<p>ASSERTED THAT THE REPLECATION MERELY CONTAINED A TRAVERSE AND</p> <p>CONCLUDED WITH A VERIFICATION OF THE PLEA.</p> <p>THE PLEADING UNDER SUCH CIRCUMSTANCES DOES NOT REACH AN ISSUE</p>	<p>REPLICATION YOUR HONOR PLEASE CONTENTS OF THE [space] IN THE THIRD PLEA [space]</p> <p>IT SHOULD PROPERLY CONCLUDE TO THE CONTRARY IN ORDER COMPLETE ISSUE. CONCLUDING AS IT DOES WITH VERIFICATION REQUIRES SOME FURTHER PLEADING WITH REGARD TO THE ISSUE. BUT THE PLEADING NEVER REACHES FINALITY NEVER REACHES AN ISSUE WHEN IT</p> <p>CONCLUDES WITH THE VERIFICATION MADE.</p> <p>TRIAL MAY BE AFFECTED BY THE</p>	<p><b>DEFENDANT</b> ASSERTED THAT THE REPLICATION MERELY CONTAINED A TRAVERSE AND</p> <p>CONCLUDED WITH A VERIFICATION OF THE PLEA.</p> <p>THE PLEADING, UNDER SUCH CIRCUMSTANCES, DOES NOT REACH AN ISSUE,</p>	<p>THE REPLICATION CONTAINS ONLY A TRAVERSE AND YET IT CONCLUDES WITH A VERIFICATION [space] IT SHOULD PROPERLY CONCLUDE TO THE K/G[?] IN ORDER TO PLEA THE ISSUE [space] CONCLUDING AS IT DOES WITH A VERIFICATION IT REQUIRES SOME FURTHER PLEADING TO REACH THE ISSUE. AND PLEADING NEVER REACHES FINALITY [space]</p> <p>AN ISSUE WHEN IT [space] CONCLUDES WITH A VERIFICATION [space] AND <i>MODE</i>[?] OF TRIAL MAY BE AFFECTED BY THE</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND 'E MUST JOIN ISSUE BY TRAVERSE, WHICH I NOW MAKE ORALLY AND</p> <p>WILL REDUCE IT TO WRITING HEREAFTER.</p>	<p>CHARACTER OF EVIDENCE,</p> <p>PARTIES ARE IN NO SITUATION RESORT TO EVIDENCE</p> <p>CONCLUDED WITH VERIFICATION I WISH TO HAVE</p> <p>GENTLEMAN SHOW BY A TRAVERSE <i>IT/WHICH/—</i>[?] SEEMS AND SOME OF REFUTATION OF WHAT WOULD <i>EXPLAIN</i>[?] [<i>page torn</i>] WITHOUT TAKING UP ANY TIME "I WILL FILE THE TRAVERSE WHEN THEY REACH THE ISSUE.</p> <p>I WILL REDUCE IT TO WRITING AFTERWARDS I NEED NO PARTIES HERE TO DO SO. SUTHERLAND</p>	<p>AND WE MUST JOIN ISSUE BY A TRAVERSE,</p> <p>WHICH I NOW MAKE ORALLY AND WILL REDUCE TO WRITING HEREAFTER.</p>	<p>CHARACTER OF THE EVIDENCE [<i>space</i>] AND THE PARTIES ARE IN NO SITUATION TO RESORT TO EVIDENCE <i>WITH/WITHOUT</i>[?] ] THE <i>LEAST</i>[?] PLEADING ARE CALLING FOR A VERIFICATION I WISH THEREFORE HAVE THE GENTLEMAN SHOW BY A TRAVERSE</p> <p>SEEMS TO BE A SOURCE OF <i>REFUTATION</i>[?] OF THE MATTER URGED AND [<i>space</i>] HEAR THEM WITHOUT TAKING ANY TIME WILL FILE TRAVERSE THE IN ORDER TO REACH AN ISSUE IF MY BRETHREN AGREE [<i>space</i>] YOU WILL REDUCE IT TO WRITING AND</p> <p>WE NEED NO PARTIES HERE TO DO SO. [<i>space</i>] SUTHERLAND</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND THE ARGUMENT ON THE DEMURRERS WAS WAIVED BY BOTH SIDES.</p> <p>THE COURT</p>	<p>THESE TWO <i>PLEAS</i>[?] MAY IT PLEASE YOUR HONOR IN AS MUCH BY COURT DO YOU PROPOSE TO TAKE UP THIS IN REGARD TO THE PLEA ALSO. BY BASKIN I CAN READ THAT PLEA BASKIN I UNDERSTOOD THAT WE DISPOSED OF THE DEMURRER AND WE ARE READY TO TAKE THEM <i>WND/WNT/NRT/NRD</i>[?]. BASKIN AS WE ARE MOVING PARTIES WE DESIRE TO MAKE SOME REMARKS ON THESE PLEAS. BY COURT I THINK THESE MOTIONS HAVE BEEN DISPOSED OF HERETOFORE. WHEDON QUESTION ASKED. BASKIN WE DESIRE TO SUBMIT IT WITHOUT ANY ARGUMENT. BY COURT WE</p>	<p>AND ARGUEMENTS ON THE DEMURRERS WAS WAIVED ON BOTH SIDES.</p> <p>COURT</p>	<p>BASKIN [<i>space</i>] <del>DO</del> NOW MAY IT PLEASE YOUR HONOR [<i>space</i>]</p> <p>COURT DO YOU PROPOSE TO TAKE UP THE PLEA REPLICATION</p> <p><i>[[9]]</i> I UNDERSTOOD THAT THEY WERE READY TO DISPOSE OF THE DEMURRER</p> <p>AS WE ARE MOVING PARTIES WE DESIRE TO MAKE SOME REMARKS</p> <p>I THINK ALL THE QUESTIONS RAISED IN THESE TWO ACTS HAVE BEEN RAISED HERETOFORE AND DECIDED. I FULLY EXAMINED THEM AND DECIDED THEM IN TWO CASES.</p>
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<b>RT</b>	<b>RS</b>	<b>BT</b>	<b>PS</b>
<p>SUSTAINED THE DEMURRERS TO WHICH RULING</p> <p>JUDGE SUTHERLAND FOR DEFENSE</p> <p>EXCEPTED.</p> <p>THE REPLECATION WAS THEN TAKEN UP.</p> <p>SUTHERLAND</p> <p>ASSERTED THAT THE PROSECUTION WERE THE MOVING PARTY.</p> <p>THAT BASKIN</p>	<p>SUSTAIN DEMURRER [<i>page torn</i>] WHAT SHALL WE DO WITH THE PLEAS.</p> <p>SUTHERLAND YOUR HONOR</p> <p>MAY ENTER THE EXCEPTION. COURT WHAT SHALL WE DO WITH THE PLEAS.</p> <p>BASKIN WE ARE READY TO DISPOSE OF IT [<i>space</i>]<sup>[2]47</sup> BY COURT ARE YOU READY DEFENSE YES SIR BY COURT TAKE IT UP THEN.</p> <p>CAREY. TO DEFENSE HAVE YOU ANYTHING TO SAY ON THIS SUBJECT YOU ARE THE MOVING PARTYS IN THIS MATTER BY SUTHERLAND NO SIR.</p> <p>BY BASKIN.</p>	<p>SUSTAINED THE DEMURRERS TO WHICH <del>JUD</del> RULING</p> <p><b>J. G. JUDGE SUTHERLAND FOR DEFENSE ASKED THAT THEIR RULINGS EXCEPTIONS TO THE RULINGS OF THE COURT TO BE NOTED.</b></p> <p>THE REPLICATION WAS THEN TAKEN UP.</p> <p><b>J.G. SUTHERLAND FOR DEFENSE ASSERTED THAT THE PROSECUTION WERE THE MOVING PARTY, BUT R. N. BASKIN</b></p>	<p>[<i>space</i>] DEMURRERS SUSTAINED.</p> <p>EXCEPTION. [<i>space</i>] WHAT SHALL WE DO WITH THE PLEA [<i>space</i>] BASKIN WE ARE READY.</p> <p>GO TAKE IT UP THEN. [<i>space</i>]</p> <p>BASKIN</p>

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47. “**COMPARED**” is written in longhand at the top of the page.

**RT**

**RS**

**BT**

**PS**

<p>CLAIMED THE DEFENSE WERE THE AFFIRMATIVE</p> <p>AND UNLESS THEY THE DEFENSE MOVED THE PROSECUTION HAD NOTHING TO SAY.</p> <p>THE COURT ASKED COUNSEL FOR THE PAPERS AND A DISCUSSION ENSUED AS TO WHICH WAS THE AFFIRMATIVE <del>MA</del> PARTY, WHICH THE COURT DECIDED TO BE THE DEFENSE.</p>	<p>I CLAIM THEY ARE THE MOVING PARTIES IN THIS MATTER</p> <p>AND UNLESS THEY MAKE A MOVE</p> <p>WE HAVE NOTHING TO SAY. CAREY WE SUBMIT ALL THE PAPERS TO THE COURT. INDICTMENT PLEA AND REPLICATION BY HOGE THAT IS SOMETHING OUTSIDE PAPERS. CAREY COURT ASKED TO HAVE PAPERS PASSED UP AND WE DID SO REMARKS BY BISHOP CAREY COURT INQUIRED FOR CERTAIN PAPERS AND WE PASSED THEM. CAREY WE ONLY PASSED UP PAPERS ON</p>	<p><b>ASSISTANT U. S. DISTRICT ATTORNEY</b> CLAIMED THAT THE DEFENSE WERE THE AFFIRMATIVE</p> <p>AND UNLESS THEY  THE DEFENSE  MOVED THEY ¶ THE PROSECUTION  HAD NOTHING TO SAY.</p> <p>THE COURT ASKED FOR THE PAPERS AND A DISCUSSION ENSUED AS TO WHICH WAS THE AFFIRMATIVE PARTY AFTER WHICH THE COURT DECIDED <b>IT</b> TO BE THE DEFENSE.</p>	<p>WE CLAIM THAT THEY ARE THE MOVING PARTIES THEY ALLEGE THAT THIS WAS NOT DONE AND THE BURDEN IS UPON THEM AND UNLESS THEY MAKE A MOVEMENT</p> <p>WE HAVE NOTHING TO SAY. CAREY WE SUBMIT PAPERS TO THE COURT . [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>FILE. BY COURT. YOU SAY YOU SUBMITTED PAPERS CAREY YES SIR. BY SUTHERLAND</p> <p>THEY INSIST WE HOLD THE AFFIRMATIVE WE INSIST THAT THEY THE AFFIRMATIVE. IF THEY SUBMIT IT WITHOUT PROOF WE DO.</p> <p>BASKIN I DID NOT HEAR THE</p> <p>PROPOSITION [space]</p> <p>BY COURT PROPOSITION IS THEY SUBMIT IT WITHOUT PROOF AND YOU SUBMIT IT WITHOUT PROOF BASKIN</p> <p>THEY ALLEGE THE FACT AND WE</p>		<p>SUTHERLAND WHAT DOES YOUR HONOR REFER TO [space] THEY INSIST THAT WE HOLD THE AFFIRMATIVE AND WE INSIST THAT THEY DO</p> <p>IF THEY SUBMIT IT THEY PROVE WE DO. COURT WHAT DO YOU SAY MR. CAREY WE HAVE NO OBJECTION TO FF THAT. [space] DID NOT HEAR THE &lt;BUT I HEARD THE&gt; PROPOSITION THAT WAS MADE [space] COURT THAT IF YOU WILL SUBMIT IT WITHOUT[?] PROOF THEY YOU DO [space]</p> <p>BASKIN WE MOST CERTAINLY DO [space] THEY ALLEGE THE FACT AND WE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ENTER A DENIAL. [space] SUTHERLAND MY REJOINDER IS NOT PREPARED WHICH IS SIMPLY A TRAVERSE. CAREY WE INSIST THERE IS NO REJOINDER NECESSARY. BY COURT IF THEY DESIRE TO FILE IT IT WILL BE CONSIDERED ON. BY COURT THIS IS ≪THE PLEA&gt; AS JOHN D. LEE IN HIS OWN PROPER PERSON AFTER HEARING SAID INDICTMENT READ HAVE FURTHER PLEA ON THIS BEHALF SAYS HE OUGHT NOT TO BE TRIED ON THIS INDICTMENT BECAUSE IT HAS NOT BEEN PRESENTED TO THIS COURT OR ANY OTHER COURT OR GRAND JURY. REPLY SAYS SAID INDICTMENT BY</p>		<p>DENY IT THEY THREATENING TO BRING PROOF TO SUSTAIN THEIR ALLEGATION</p> <p>COURT [space] THE PLEA [space] WHOLE[?] REJOINDER IS NOT IN YET. SAID NO. THIS PLEADS THAT JOHN D LEE IN HIS OWN PROPER PERSON “ READ 3 PLEA [space]</p> <p>THE REPLY SAYS [space] “THAT THE SAID INDICTMENT &amp;C</p>
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**RT**

**RS**

**BT**

**PS**

<p>TO WHICH RULING JUDGE SUTHERLAND FOR DEFENSE</p> <p>EXCEPTED.</p> <p>BASKIN</p> <p>THEN SPOKE IN</p>	<p>REASON OF ANYTHING ALLEGED REASON JOHN D. LEE SAID PLEA OUGHT NOT TO BE QUASHED BECAUSE SAID INDICTMENT IS A LEGAL INDICTMENT IN THIS COURT. 24 DAY SEPTEMBER 1874 I AM INCLINED TO THINK THE BURDEN<sup>48</sup> OF THE DEFENDANT MUST SHOW IT IS NOT A LEGAL INDICTMENT ALLEGES IT IS NOT A LEGAL INDICTMENT <i>EITHER</i>[?] PARTY COMES UP AND IT IS A LEGAL INDICTMENT BY SUTHERLAND</p> <p>PLEASE ENTER AN EXCEPTION.</p> <p><sup>III</sup>BASKIN MAY IT PLEASE YOUR</p>	<p><b>J.G.</b> SUTHERLAND <b>FOR DEFENSE</b></p> <p>EXCEPTED.</p> <p><b>R.N.</b> BASKIN <b>FOR</b> <b>PROSECUTION</b> THEN SPOKE IN</p>	<p>[<i>space</i>] RECORD IN THIS COURT” [<i>space</i>]</p> <p>I AM INCLINED TO THINK THAT THE BURDEN ≪OF PROOF≫ IS UPON THE DEFENDANT TO SHOW THAT IT IS <del>NOT</del> NOT A LEGAL INDICTMENT HE ALLEGES IT IS [<i>space</i>]</p> <p>OTHER PARTIES SAYS IT IS <del>NOT</del> —[?] A LEGAL INDICTMENT [<i>space</i>] <del>IF I</del> <del>FOR THE</del> PLAINTIFF ON THE PLEA. [<i>space</i>] EXCEPTION [<i>space</i>] <sup>[10]</sup> BASKIN [<i>space</i>] NOW MAY IT PLEASE YOUR</p>
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48. Word apparently added later.



**RT**

**RS**

**BT**

**PS**

<p>PRO TUNC ORDER TO SUPPLY ANY DEFICIENCY IN THE INDICTMENT.</p> <p>HE QUOTED FROM BISHOPS CRIMINAL PROCEDURE IN SUPPORT OF HIS PROPOSITION AND CITED OTHER AUTHORITIES.</p>	<p>PRO TUNC TO SUPPLY ANY INFORMALITY</p> <p>IN THAT RECORD IT IS SOMETHING IN THE DISCRETION OF YOUR HONOR PUT IN AS MUCH OF THE PROCEEDING THERE AFTER OR BEFORE THE PROCEEDING. <i>IT/FOR[?]</i> RECORD <i>HAD BEEN[?]</i> ENTIRELY SILENT ON THIS MATTER. REFER YOUR HONOR TO 1158 BISHOP CRIMINAL PROCEEDINGS <sup>[3]</sup> AFTER THERE HAS BEEN A TRIAL THE CONVICTION OF THE COURT MAY DIRECT CLERK TO ENDORSE AN INDICTMENT FILED AT THE TIME ENDORSEMENT AND THE FACT FILED. MAY ENTER UPON THE MINUTES THAT</p>	<p>PRO TUNC ORDER TO SUPPLY ANY DEFICIENCY IN THE <b>FILING OF THE</b> INDICTMENT.</p> <p>HE QUOTED FROM BISHOPS CRIMINAL PROCEDURE IN SUPPORT OF HIS PROPOSITION.</p>	<p>PRO TUNC TO SUPPLY ANY UNIFORMITY</p> <p>IN THAT RECORD AND IT IS SOMETHING THAT IS IN THE DISCRETION OF YOUR HONOR I <del>WISH</del> <i>[space]</i></p> <p><i>BEFORE AND[?]</i> UNDER JUDGMENT <i>[space]</i> I WISH TO CALL YOUR HONOR'S ATTENTION TO AUTHORITIES ((“ 1158 OF BISHOP CRIMINAL PROCEEDING. <i>[space]</i> HERE LET ME SAY THAT THE RECORD IS NOT MADE UP FROM TERM TO TERM BUT THE FINAL RECORD MAY BE MADE UP AT THE TIME OF TRIAL. <i>[space]</i></p>
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**RT**

**RS**

**BT**

**PS**

	<p>INDICTMENT WAS RETURNED INTO COURT. “OVER SUCH MATTERS COURT HAS CONTROL IT MAY BE ALTERED AMENDED <i>THEY</i> <i>SAID THEY</i> <i>SAID[?]</i> AS JUSTICE MAY REQUIRE. CONTINUED TO READ WITH REGARD TO AMENDING ERRORS. WHEN TERM OF COURT IS CLOSED IT IS TOO LATE TO UNDO ETC. NEITHER CAN CLERK CORRECT CERTAIN MATTERS. NOW THEN SIR THERE WAS EFFORT MADE BY THE CLERK ENTRY COULD READ AMENDED BY CLERK THAT</p> <p>THIS INDICTMENT WAS RETURNED AND REFERRED TO IT BY THE NUMBER. I UNDERSTAND IT</p>		<p>NOW THEN SIR THERE WAS NOT EFFORT MADE BY THE CLERK HERE TO ENTER THE ORDER TO CLERK TO INTERPERSE THE NAME INDICTMENT <i>UPON[?] [space]</i> HE REFERRED TO IT BY THE NUMBER AND I UNDERSTAND IT</p>
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**RT**

**RS**

**BT**

**PS**

<p>JUDGE SUTHERLAND:</p> <p>THE CONCLUSION MR. BASKIN ARRIVES AT IS ERRONEOUS,</p>	<p>WAS RETURNED IN OPEN COURT</p> <p>IT IS ONE OF THE CASES WHICH PRESENT ITSELF IF THE COUNSEL SAYS TO THE CLERK MAY ORDER THE</p> <p>ENTRY NUNC PRO TUNC THIS CAN BE DONE AT ANY SUCH PROCEEDING</p> <p>IF THERE IS OMISSION KIND IT MAY BE AMENDED.</p> <p>SUTHERLAND IF YOUR HONOR PLEASE LAW JUST READ BY SB[?] BASKIN I THINK IS THE LAW UPON THE SUBJECT. THEY <i>CONSIDER</i>[?] IT AS READ BUT THE CONCLUSION THAT HE ARRIVES AT</p>	<p><b>J. G. SUTHERLAND FOR DEFENSE:</b></p> <p>THE CONCLUSION THAT BMR. BASKIN ARRIVES AT IS ERONEOUS.</p>	<p>WAS RETURNED IN OPEN COURT [space] AND CERTAINLY IN THIS DECISION <del>IT WAS</del> IT IS ONE</p> <p>WHICH REFERS ITSELF TO THE DISCRETION OF THE COURT [space] THE COURT MY ENTER IT <del>IT IS</del> ENTRY NUNC PRO TUNC EVEN AFTER JUDGMENT WHEN THE FINAL RECORD OF THE CASE BE MADE UP IF THERE IS <del>ANY</del> AN OMISSION OF THAT KIND IT MAY BE AMENDED —[?]</p> <p>[space] SUTHERLAND [space] THE LAW JUST READ BY MR. BASKIN I THINK IS THE LAW UPON THE SUBJECT [space] I CONSIDER IT AS READ BUT THE CONCLUSION THAT HE ARRIVES AT</p>
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**RT**

**RS**

**BT**

**PS**

<p><sup>[10]</sup> WHEN HE ASKS FOR A MODIFICATION AND CORRECTION OF THE PROCEEDINGS OF A FORMER COURT, HE GOES DIRECTLY IN THE FACE OF THE AUTHORITIES QUOTED FROM.</p> <p>WHILE PROCEEDINGS ARE IN FIERI THEY MAY BE CORRECTED,</p>	<p>WHEN HE REQUESTS YOUR HONOR MODIFY THE RECORD OF PROCEEDING SIGNED AND CONCLUDED OF THIS COURT AT FORMER TERM HE GOES DIRECTLY IN THE FACE OF THAT AUTHORITY. HE ASKS YOUR HONOR TO DO WHAT THAT AUTHORITY DISTINCTLY SAYS THE COURT CAN'T DO. BASKIN INTERRUPTED HIM HERE.</p> <p>WHILE THE PROCEEDING ARE IN FIERI THEY MAY BE CORRECTED ORDERS MAY</p> <p>SUPPLY DEFICIENCIES NUNC PRO TUNC ORDERS. <del>WHEN DO YOU LET[?]</del> WHEN DO PROCEEDINGS CEASE TO BE IN FIERI FOR THE ACTION OF THIS</p>	<p>WHEN HE ASKS FOR A MODIFICATION OF THE PROCEEDINGS OF A FORMER COURT, HE GOES DIRECTLY IN THE <del>CAF</del> FACE OF THE AUTHORITY QUOTED FROM.</p> <p>WHILE PROCEEDINGS ARE IN FIERI, THEY MAY BE CORRECTED;</p>	<p>WHEN HE REQUESTS YOUR HONOR TO MODIFY THE RECORD OF PROCEEDINGS SIGNED AND CONCLUDED OF THIS COURT AT A FORMER TERM HE GOES DIRECTLY IN THE FACE OF THAT AUTHORITY HE ASKS YOUR HONOR THAT THAT AUTHORITY DISTINCTLY SAYS THE COURT CAN'T DO</p> <p><sup>[[11]]</sup> [space]</p> <p>WHILE THE PROCEEDING ARE IN FIERI THEY MAY BE CORRECTED ORDERS MAY BE MADE TO SUPPLY DEFICIENCIES NUNC PRO TUNC ORDERS MAY BE MADE [space] NOW WHEN DO PROCEEDINGS CEASE BE IN FIERI [space]</p>
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**RT**

**RS**

**BT**

**PS**

AND THAT AUTHORITY DECIDES THE QUESTION.	COURT THAT AUTHORITY DECIDES THE QUESTION. WHEN THE TERM. THIS COURT AND NO OTHER COURT OF	THAT AUTHORITY DECIDES THE QUESTION.	THAT AUTHORITY DECIDES THE QUESTION WHEN THE TERM ENDS THIS COURT AND NO OTHER COURT OF
NO COURT	LIMITED JURISDICTION	NO COURT	GENERAL OR LIMITED JURISDICTION
THAT SITS HAS ANY AUTHORITY	THAT SIT BY TERMS HAS ANY AUTHORITY AFTER THE TERM CLOSES	THAT SITS HAS ANY AUTHORITY	THAT SITS BY TERMS HAS ANY AUTHORITY AFTER THE TERM CLOSES
TO GO BACK AND AMEND ITS PROCEEDINGS.	TO GO BACK AND AMEND THE RECORD IN MATTERS OF	TO GO BACK AND AMEND PROCEEDINGS,	TO GO BACK AND AMEND THE RECORD IN MATTERS AND
IT IS SO HELD BY THE SUPREME COURT OF THE UNITED STATES	[ <i>space</i> ] IT HAS BEEN SO HELD BY THE SUPREME COURT OF THE UNITED STATES IN RESPECT TO ITS OWN PROCEEDING.	IT IS SO HELD BY THE SUPREME COURT OF THE UNITED STATES, AND	SUBSTANCE IT HAS BEEN SO HELD BY THE SUPREME COURT OF THE UNITED STATES IN RESPECT TO ITS OWN <sup>49</sup> PROCEEDINGS
AND SO HELD BY THE	IT HAS BEEN HELD SO BY THE HIGHEST	IS SO HELD BY THE	[ <i>space</i> ] IT HAS BEEN HELD SO BY THE HIGHEST
COURTS OF	COURTS OF THE STATES. IT HAS BEEN HELD BY THE COURTS OF	COURTS OF	COURTS OF THE STATES IT HAS BEEN HELD BY THE COURTS ON
GENERAL JURISDICTION	GENERAL JURISDICTION TRIED FACTS	GENERAL JURISDICTION	GENERAL JURISDICTION TRYING FACTS
THROUGHOUT	THROUGHOUT	THROUGHOUT	THROUGHOUT

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49. Word apparently added later.

**RT**

**RS**

**BT**

**PS**

<p>THE UNION,</p> <p>THAT A DEFAULT</p> <p>ENTERED AT ONE TERM</p> <p>CANNOT BE SET ASIDE AT A SUCCEEDING TERM. I</p> <p>REFERRED TO THIS PREVIOUSLY</p> <p>BEFORE YOUR HONOR AND THE AUTHORITIES UPON THE SUBJECT ARE VERY NUMEROUS, THOUGH I CITED BUT</p> <p>FIFTY OR SEVENTY FIVE,</p>	<p>THE —[?] <del>UNION.</del> LAW JUST READ FROM BISHOP IS BUT A REITERATION IS</p> <p>HELD EVERYWHERE IT IS COMMON —[?] IF YOUR HONOR PLEASE IF IT IS IT FILED</p> <p>ENTERED AT ONE TERM AND PASSED A JUDGMENT</p> <p>CAN NOT BE SET ASIDE AT A SUCCEEDING TERM. I THINK I HAD OCCASION TO REFER SOMEWHAT AT LARGE TO THAT CLASS OF DECISIONS ON ONE OCCASION</p> <p>BEFORE YOUR HONOR AND THE AUTHORITIES WERE SO ABUNDANT SO</p> <p>NUMEROUS THAT I HAD TO CONTENT MYSELF WITH BUT A PARTIAL LIST INCLUDING PERHAPS 50 <b>OR</b> SEVENTY FIVE CASES I FORBORE TO</p>	<p>THE UNION;</p> <p>AND A DEFALT</p> <p>ENTERED AT ONE TERM</p> <p>CAN NOT BE SET ASIDE AT A SUCCEEDING TERM. I</p> <p>REFERED TO THIS PREVIOUSLY</p> <p><del>BEFORE</del> YOUR HONOR; THE AUTHORITIES UPON THE SUBJECT ARE</p> <p>NUMEROUS, THOUGH I CITED BUT</p> <p>50 OR 75</p>	<p>THE NATION THE LAW JUST READ FROM BISHOP IS BUT REITERATION OF THE LAWS HELD EVERYWHERE IT HAS COMMON MEANING THAT A DEFAULT</p> <p>ENTERED AT ONE TERM AND PASSING A JUDGMENT</p> <p>CAN NOT BE SET ASIDE AT A SUCCEEDING TERM I THINK I HAD OCCASION TO REFER SOMEWHAT AT LARGE TO THAT CLASS OF DECISIONS ON ONE OCCASION</p> <p>BEFORE YOUR HONOR AND THE AUTHORITIES WERE SO ABUNDANT SO</p> <p>NUMEROUS THAT I HAD TO CONTENT MYSELF WITH A PARTIAL LIST INCLUDING PERHAPS 50 75 CASES I FORBORE TO</p>
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**RT**

**RS**

**BT**

**PS**

<p>NOT HAVING TIME TO PRESENT OTHERS. THE COUNSEL HAVE JOINED ISSUE UPON THE PLEA THAT THE INDICTMENT WAS NOT PRESENTED TO THE GRAND JURY, BUT YOUR HONOR DECIDED THAT IT WAS SO PRESENTED.</p> <p>LET THEM BE CONTENT.</p>	<p>STATE OTHER CASES FOR WANT OF TIME.</p> <p>HERE COUNSEL HAVE JOINED ISSUE <sup>[4]</sup> TO A PLEA ALLEGING THAT THIS INDICTMENT WAS NOT PRESENTED TO THIS COURT BY THE GRAND JURY. THAT HAS BEEN DETERMINED YOUR HONOR HAS DECIDED IN FACT THE GRAND JURY DID PRESENT THIS INDICTMENT TO THE COURT.</p> <p>LET THEM BE CONTENT WITH THAT DETERMINATION. THEY ARE NOT YET HOWEVER. THEY SEEK TO FORTIFY YOUR HONOR'S DECISION <i>BY NOW</i>[?] PRESENTING OPEN MOTION. PROVED THAT IT IS NOT CONTAINED IN</p>	<p>HAVING NO TIME TO PRESENT OTHERS. THE COUNSEL HAVE JOINED ISSUE UPON THE PLEA THAT THE INDICTMENT WAS NOT PRESENTED TO THE GRAND JURY;</p> <p>YOUR HONOR DECIDED THAT IT WAS SO PRESENTED —</p> <p>LET THEM BE CONTENT.</p>	<p>STATE OTHER CASES FOR WANT OF TIME TO IT NOW HERE COUNSEL HAVE JOINED ISSUE TO A PLEA ALLEGING THAT THIS INDICTMENT WAS NOT PRESENTED TO THIS COURT BY THE GRAND JURY THAT ISSUE HAS BEEN DETERMINED YOUR HONOR HAS DECIDED IN FACT THAT THE GRAND JURY DID PRESENT THIS INDICTMENT TO THE COURT</p> <p>[space] LET THEM BE CONTENT WITH THAT DETERMINATION THEY ARE NOT HOWEVER THEY SEEK TO FORTIFY YOUR HONOR'S DECISION <i>BY NOW</i>[?] PRESENTING OPEN MOTION PROVED THAT IS NOT CONTAINED IN</p>
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**RT**

**RS**

**BT**

**PS**

<p>NOW, CAN THEY COME HERE</p> <p>AND DO WHAT THE LAW SAYS CANNOT BE DONE —ALLEGE</p>	<p>THE RECORD AND IT WOULD NOT APPEAR UPON THE TRANSCRIPT OF ALL THE PROCEEDING IN THIS CASE. THEY HAVEN'T BUT A <i>DETERMINATION</i> [?] UPON THIS ISSUE TO INDICATE THAT THE INDICTMENT WAS PRESENTED BY THE GRAND JURY. THEY KNOW VERY WELL THERE IS NO RECORD OF IT. CAN THEY MAKE THAT RECORD NOW? CAN THEY COME INTO THIS COURT AT THIS SUCCEEDING THIS SECOND TERM AFTER THIS INDICTMENT WAS FILED AND DO WHAT THE LAW SAYS CANNOT BE DONE ALLEGE</p>	<p>BUT CAN THEY CCOME HERE</p> <p>AND DO WHAT THE LAW <sup>[10]</sup> SAYS CANNOT BE DONE—ALLEGE</p>	<p>THE RECORD AND WHICH WOULD NOT APPEAR UPON THE TRANSCRIPT OF THE PROCEEDINGS IN THIS CASE [space] <sup>[12]</sup> THEY HAVE NOT ANYTHING BUT A DETERMINATIO N UPON THIS ISSUE TO INDICATE THAT THE INDICTMENT WAS PRESENTED BY THE GRAND JURY THEY KNOW VERY WELL THAT THERE AIN'T ANY RECORD OF IT [space] CAN THEY MAKE THAT RECORD NOW CAN THEY M COME INTO THIS COURT OF AT</p> <p>THIS SECOND TERM AFTER THIS INDICTMENT WAS FILED TO DO WHAT THE LAW SAYS CAN'T BE DONE ALLEGE</p>
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**RT**

**RS**

**BT**

**PS**

<p>A FORMER RECORD FALSE ?</p> <p>THEY WOULD NOT BE ALLOWED TO SAY ANYWHERE THAT WHAT IS RECORDED</p> <p>NEVER TOOK PLACE, OR THAT</p> <p>ANYTHING THAT DID TAKE PLACE IS</p>	<p>THAT THE RECORD OF THE FORMER TERM IS FALSE? THAT RECORD IS CLOSED. IT IS NO LONGER IN FIERI. EVERY SINCE THAT TERM CLOSED RECORD OF EACH ITS PROCEEDINGS IN IMPARTED ABSOLUTE VERITY. NO ALLEGATION IN ANY COURT IN THIS NATION WOULD BE ALLOWED AGAINST WHAT IT ASSERTS IF AFFIRMATIVELY OR</p> <p>NEGATIVELY NO ONE WOULD BE PERMITTED TO SAY ANYTHING THEY RECORDED AS HAVING TAKEN PLACE DID NOT TAKE PLACE NO ONE WOULD BE PERMITTED TO ALLEGE IN COURT ANYTHING TOOK PLACE WHICH</p>	<p>A FORMER RECORD FALSE.</p> <p>THEY WOULD NOT BE ALLOWED TO SAY ANY WHERE THAT WAS RECORDED <b>WHICH NEVER NEVER</b> TOOK PLACE, OR THAT</p> <p>ANYTHING TOOK PLACE THAT IS</p>	<p>THAT THE RECORD OF THE FORMER TERM IS FALSE [<i>space</i>] THAT RECORD IS CLOSED IT IS NO LONGER IN FIERI EVERY SINCE THAT TERM CLOSED THE RECORD OF EACH OF ITS PROCEEDINGS IS IMPARTED ABSOLUTE VERITY [<i>space</i>] NO ALLEGATION OF ANY COURT IN THIS NATION WOULD BE ALLOWED <del>N</del> AGAINST WHAT IT ASSERTS AFFIRMATIVELY OR WHAT IT ASSERTS NEGATIVELY NO ONE WOULD BE PERMITTED TO SAY THAT ANYTHING <i>THERE</i>[?] TOOK PLACE WOULD BE <i>ALLOWED</i>[?] TO SAY IT DID NOT TAKE PLACE</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND</p> <p>CANNOT BE CHANGED OR GAINSAID.</p> <p>THE MOTION OF THE PROSECUTION OUGHT NOT TO BE GRANTED.</p> <p>BASKIN AGAIN QUOTED FROM BISHOP,</p>	<p>[?] OUT OF THE JURISDICTION OF THE COURT WHAT IT FAILS TO SHOW MUST REMAIN ALWAYS NOT SHOWN AND WHAT IT SHOWS CAN NEVER BE GAINSAID. FOR THIS REASON I SAY UPON THE AUTHORITY WHICH COUNSEL HAS READ HIS MOTION</p> <p>OUGHT NOT TO BE GRANTED INVOLVING A CHANGE TO THE RECORD OF A FORMER TERM. BASKIN</p> <p>GENTLEMAN ASSUMES WE ARE ASKING TO DO SOMETHING THAT CONTRADICTS THE RECORD OR SETS ASIDE A PROPOSITION. <i>IF SOME ORDER MADE</i>[?]</p>	<p>AND</p> <p>CANNOT BE GAINSAID.</p> <p>THE MOTION OF THE PROSECUTION OUGHT NOT TO BE GRANTED.</p> <p><b>M<sup>R</sup></b> BASKIN AGAIN QUOTED FROM BISHOP;</p>	<p>OUT OF THE JURISDICTION OF THE COURT WHAT IT FAILS TO SHOW MUST REMAIN ALWAYS NOT SHOWN AND WHAT IT SHOWS CAN NEVER BE GAINSAID FOR THIS REASON I SAY UPON THE AUTHORITIES WHICH COUNSEL HAS READ HIS MOTION</p> <p>SHOULD NOT BE GRANTED INVOLVING A CHANGE OF THE RECORD OF A FORMER TERM <sup>[[13]]</sup> BASKIN [space] THE GENTLEMAN ASSUMES THAT THE [space] WE ARE [space] ASK TO DO SOMETHING WHICH CONTRADICTS THE RECORD AND CONTRADICTS THE JUDGMENT [space] THE FIRST CASES I READ WERE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BUT THE GENTLEMAN ASSERTS AUTHORITY FROM WHICH I READ SUSTAINS THE EXACT OPPOSITE OF WHICH I CLAIM. HE MUST HAVE BEEN —[?] IN HAVING IDEA OF THE AUTHOR. WHEN A TERM OF THE COURT IS CLOSED IT IS TOO LATE TO UNDO A SUBSEQUENT TERM.</p> <p>[5] THIS AUTHOR WRITES WHILE YOU CAN NOT REVERSE OR MODIFY JUDGMENT FOR INSTANCE AT A FORMER TERM THE CLERK</p>		<p>CASES WITHOUT ANY PLACE STATING AUTHORITY [space] GENTLEMAN ASSERTS THAT THE AUTHORITY I READ STATES THE VERY OPPOSITE OF WHAT I ASSERT IT DOES CLAIM READS “[space]”</p> <p>THIS IS NOT OUR CASE WE DO NOT SEEK TO UNDO ANYTHING THAT WAS DONE AT A FORMER TERM [space] WHAT WAS DONE <del>BY</del> BY A NUNC PRO TUNC ORDER [space] “NEITHER CAN THE CLERK &amp;C” [space] NOW THEN THIS AUTHOR HOLDS THAT WHILE YOU CAN NOT REVERSE OR MODIFY A JUDGMENT MADE AT A FORMER TRIAL THE CLERK</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CAN'T MAKE ANY MODIFICATION THIS REFERS TO THE POWER OF THE CLERK PROCEEDING ON HIS OWN MOTION. THE COURT MAY ORDER NUNC PRO TUNC ENTRIES OF WHAT WAS DONE AT THE PROCEEDING TERM. HE REFERS MAY IT PLEASE YOUR HONOR TO</p> <p>SOME 20 OR 30 CASES THAT <i>SUPPLIES</i>[?] THAT OMISSION. I DO NOT HAVE ANY OTHER BOOKS HERE IN TOWN.</p>		<p>CAN'T MAKE ANY [space] "BUT THIS REFERS TO THE ABILITY OF THE CLERK</p> <p>[space] TERM" [space] NOW THE GENTLEMAN [space] HE MUST HAVE BEEN UNFORTUNATE IN MAKING THIS OTHERS MEANING UNDERSTOOD [space] HE REFERS TO 20 OR 30 CASES UNFORTUNATELY WE ARE DOWN HERE I DO NOT THINK THAT IF ALL THE BOOKS WERE IN TOWN IF WE WERE FORTUNATE ENOUGH TO GET</p>
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**RT**

**RS**

**BT**

**PS**

<p>SAYING: WE DON'T SEEK TO AMEND WHAT WAS DONE BUT TO SET FORTH MORE CLEARLY</p> <p>WHAT WAS DONE, THROUGH A NUNC PRO TUNC ORDER.</p> <p>WHEN A COURT RECORD GOES ABOVE IT SHOULD BE EXPLICIT. WE ASK THE ORDER TO SHOW WHAT WAS DONE.</p>	<p>YOU WILL FIND UNDER THE APPLICATION OF THAT <i>DKTR</i>[?]</p> <p>EXERCISE OF THESE NUNC PRO TUNC ORDERS WERE MADE TO APPLY TO SUCH CASES AT BAR.</p> <p>I DO NOT THINK THAT THE RECORD AS IT WAS MADE UP AT THE LAST TERM CLEARLY EXPRESSES WHAT WAS DONE. WE ASK A NUNC PRO TUNC ORDER TO EXPRESS WHAT WAS CLEARLY DONE WHICH</p>	<p>SAYING WE DONT SEEK TO AMEND WHAT WAS DONE BUT TO SET FORTH MORE CLEARLY</p> <p>WHAT WAS DONE.</p> <p>A NUNC PRO TUNC ORDER.</p> <p>WHEN THE COURT RECORD GOES ABOVE, IT SHOULD BE EXPLICIT. WE ASK THE ORDER TO SHOW WHAT WAS DONE;</p>	<p>THE BOOKS</p> <p><i>GET/GIVE</i>[?] THE EXERCISE OF THOSE NUNC PRO TUNC ORDERS WERE MADE TO MEET SUCH CASES AT BAR [<i>space</i>] BECAUSE IT IS DESIRABLE THAT WHEN THE COURT RECORD GOES UP ABOVE THAT IT SHOULD BE CLEAR AND EXPLICIT [<i>space</i>] I DO NOT THINK THE RECORD DOES THIS AND COURT ABOVE MAY NOT UNDERSTAND IT OR BE MISLED BY IT [<i>space</i>] NOW WE ASKING A NUNC PRO TUNC ORDER TO SHOW WHAT WAS DONE [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

<p>LET THE RECORD GO UP ACCORDING TO THE FACTS.</p>	<p>YOUR HONOR HAS A RIGHT TO MAKE.</p> <p>IT IS ENTIRELY DIFFERENT PROPOSITION OF A CASE FROM WHERE JUDGMENT OR ORDER IS <i>SET</i>[?] TO BE CHANGED OR MODIFIED IT IS SIMPLY DONE FOR THE PURPOSE OF SUPPLYING AN OMISSION. THERE IS A RECORD BUT IT DON'T EXPRESS IT EXPLICITLY AND FAIRLY.</p> <p>WE DESIRE THERE CAN'T BE ANY HARM DERIVED FROM IT IT <i>WAS</i>[?] A MOTION FOR</p>	<p>LET THE RECORD GO UP ACCORDING TO THE FACTS.</p>	<p>YOUR HONOR HAS RIGHT <sup>[[14]]</sup> TO MAKE AN NUNC PRO TUNC ORDER TO SHOW THE ACTUAL PROCEEDINGS [space] <del>NOW</del> IT IS ENTIRELY DIFFERENT CASE TO WHERE THE ORDER IS CHANGED OR MODIFY SIMPLY FOR THE PURPOSE OF SUPPLYING AN OMISSION [space] THERE IS A RECORD BUT IT DON'T EXPRESS ITSELF EXPLICITLY AND FULLY</p> <p>[space] <i>IT</i>[?] <i>COMPELS/PLEAS</i> <i>ES</i>[?] US TO THE REASON THERE CAN'T BE ANY HARM DERIVED FROM IT [space] IT IS A FACT THAT YOUR HONOR MUST KNOW</p>
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**RT**

**RS**

**BT**

**PS**

<p>[11] THE COURT RULED ALL THE INDICTMENTS WERE PRESENTED IN OPEN COURT</p>	<p>THE REASON WHY IT DON'T</p> <p>APPEAR FULLY THEREFORE</p> <p>IT AIN'T MODIFYING ANYTHING BUT SIMPLY SUPPLYING THE OMISSION. I SIMPLY THROW THAT OUT IT THIS IS AN IMPORTANT CASE RECORD GO UP ACCORDING TO THE FACTS, CAREY IT IS UNNECESSARY FOR THE COURT PASSING UPON IT NOW.</p> <p>WE DO NOT DESIRE TO URGE PASSAGE UPON IT NOW IF THE</p>	<p>COURT. ALL THE INDICTMENTS WERE PRESENTED <math>\cup</math> IN OPEN COURT</p>	<p>[space] THE REASON THAT IS DOES NOT APPEAR IS THAT IT WAS AN OMISSION [space] IF IT DOES/THAT IS[?] APPEAR FULLY</p> <p>&lt;IT DON'T MODIFY ANYTHING BUT&gt; SIMPLY SUPPLY AN OMISSION [space] I MERELY THROW THAT OUT WITH THIS BEING AN IMPORTANT CASE THAT THE RECORD GO UP ACCORDING TO THE FACT AND THE CLERK NOT HAVING MADE IT FULLY OUT TO YOUR HONOR IT WOULD BE PLAIN [space] IT IS A MATTER THAT WE DO NOT URGE THE PASSAGE OF IT NOW IF THE</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND HE DID AS HE WAS INSTRUCTED.</p>	<p>COURT DESIRES.  COURT I KNOW ALL THESE INDICTMENTS WERE PRESENTED IN OPEN COURT NO QUESTION ABOUT IT. CLERK JUST FILLED OUT PRNS/-[?] IN COURT DID JUST AS HE WAS INSTRUCTED. OTHER WISE. WHEN THE PARTIES ARE ARRESTED  NAMES ARE ENTERED IN THE RECORD FACT OF THE FILLING UP OF THE RECORD AFTERWARDS IS ONLY FILLING IT UP IN CORRESPONDENCE WITH THE FACTS THERE CAN BE NO DOUBT AS TO</p>	<p>AND THE CLERK DID AS HE WAS INSTRUCTED.</p>	<p>COURT DESIRES IT. [space] COURT I KNOW THAT ALL THESE INDICTMENTS WERE PRESENTED IN OPEN COURT THERE IS NO QUESTION ABOUT THAT THE CLERK JUST FILLED OUT THE AND [space]  AND IN THE COURT WHEN THE PARTY IS NOT ARRESTED [space] NOT TO GIVE THE NAME [space] WHEN THE PARTY IS ARRESTED TO ENTER THEIR NAME ON THE RECORD [space] AND THE FACT THAT THE FILLING UP OF THE RECORD AFTERWARDS IS ONLY FILLING IT UP IN CORRESPONDENCE WITH THE FACTS THERE CAN BE NO DOUBT ABOUT I</p>
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RT	RS	BT	PS
<p>I HAVE OBJECTIONS TO THE ENTRY BEING MADE. SUTHERLAND:</p>	<p>ITS CORRECTNESS.<sup>50</sup> IT IS ONLY MAKING IT MORE DEFINITE I DO NOT THINK ANY COURT WOULD CONSIDER IT A DEFECT IN THE COMMON PRACTICE.</p>	<p>I HAVE NO OBJECTIONS TO THE ENTRY BEING MADE MAND. J.G. SUTHERLAND</p>	<p>DO NOT THINK [space] IT IS ONLY MAKING MORE DEFINITE WHAT WAS BEFORE SUFFICIENTLY DEFINITE [space] YET IF THE PROSECUTION THINK THAT IT WOULD MAKE THE MATTER MORE PLAIN I HAVE NO OBJECTION TO THE PROSECUTION HAVING A NUNC PRO TUNC ORDER MADE [[15]] DEFENSE [space]</p>
<p>YOUR HONOR WILL PLEASE GRANT US THE BENEFIT OF AN EXCEPTION TO YOUR RULING.</p>	<p>III SUTHERLAND WILL YOUR HONOR GIVE US BENEFIT OF AN EXCEPTION.<sup>IIII</sup> BY COURT ARE THE PROSECUTION READY WHAT DOES THE DEFENSE SAY SUTHERLAND THE DEFENSE PLEADS NOT GUILTY. CLERK SAID YOU</p>	<p>FOR DEFENSE: YOUR HONOR WILL PLEASE GRANT US THE BENEFIT OF AN EXCEPTION.</p>	<p>EXCEPTIONS. PROSECUTION READY TO. TO THE CHARGE</p>

50. The original grand jury entry did not list names or charges. As the individuals were arrested, their names and charges were entered into the record. See Grand Jury Indictment Minute Book 1, p. 57.

**RT**

**RS**

**BT**

**PS**

<p>LEE WAS THEREUPON ARRAIGNED AND PLEAD NOT GUILTY.</p>	<p>DESIRE TO SAY TO THIS INDICTMENT YOU PLEAD GUILTY OR NOT GUILTY JOHN D. LEE</p> <p>SAID NOT GUILTY. BY CAREY WE'LL PREPARE THAT ORDER FOR THE CLERK. SUTHERLAND I DESIRE TO MAKE A FEW REMARKS AS TO WHETHER YOUR HONOR PERMITS THE BLANKS TO BE <sup>[6]</sup> FILLED UP.</p> <p>SUTHERLAND</p> <p>BLANKS ARE LEFT IN RECORD IS IT TO FILL UP THESE BLANKS. BY COURT IT <i>MAY/MIGHT</i>[?] BE DONE <del>≤SUTHERLAND≥</del> THERE HAVE BEEN</p>	<p>LEE WAS THEN <del>HERE</del> ARRAIGNED AND PLEAD "NOT GUILTY."</p>	<p>CONTAINED IN THIS INDICTMENT DO YOU <del>≤</del>PLEAD GUILTY OR NOT GUILTY. ≥ JOHN D LEE</p> <p>PLEADS NOT GUILTY. <i>[space]</i></p> <p>I DESIRE <i>[space]</i> THAT IS</p> <p>WHETHER YOUR HONOR PERMITS BLANKS IN THE RECORDS BE FILLED UP COURT THIS IS BY NUNC PRO TUNC ENTRY <i>[space]</i> SUTHERLAND <i>[space]</i> WITHOUT ANY EXPRESS DIRECTIONS TO THAT EFFECT. I NOTICE BLANKS IN THE RECORD IS IT YOUR HONOR'S <i>[space]</i></p> <p>THERE HAVE BEEN NAMES <i>IN</i></p>
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**RT**

**RS**

**BT**

**PS**

	<p>ENTRIES HERE AT ODD TIMES AND WITH DIFFERENT INK. SO THEIR ENTRY SHOULD HAVE BEEN <i>ACCUSTOMED/KS</i> <i>TMD</i>[?] TO SAY IN THIS CASE IS FOR THE ENTRY TO SAY THE GRAND JURY CAME INTO COURT AND MADE</p> <p>SUNDRY PRESENTMENTS . PRESENTING IN OPEN COURT BEFORE THE GRAND JURY</p> <p>AND <i>FILLED/FILED</i>[?] AT SUCH TIME. THIS RECORD SEEMS TO BE FRAGMENTARY SEEMS TO BE MADE INCOMPLETE WITH BLANKS WHICH MAY BE AFTERWARD CHANGED BY THE INSERTION OF NAMES AND DESTROYING THE IDENTITY OF THE RECORD</p>		<p><i>IT/ENTERED</i>[?] [<i>space</i>] MY INSTRUCTIONS TO THE CLERK IS WHEN A PARTY IS NOT UNDER ARREST [<i>space</i>]</p> <p>SUTHERLAND TO SHOW ENTRY IS THAT THE GRAND JURY <del>HAS</del> CAME INTO COURT AND <del>MADE</del> PRESENTED SUNDRY INDICTMENTS [<i>space</i>] <del>AND HOW</del> RECORD AS FILED BY THE CLERK —[?] AND THE INDICTMENT AND IT <i>FILED/FILLED</i>[?] &amp;C THIS SEEMS TO HAVE BEEN MADE</p> <p>DESTROYING THE IDENTITY OF THE RECORD</p>
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**RT**

**RS**

**BT**

**PS**

<p>JUDGE SUTHERLAND</p> <p>THEN MADE ANOTHER ARGUMENT IN FAVOR OF LEE AND DAME BEING</p> <p>TRIED JOINTLY, CONTENDING THAT IT WAS DAME'S ONLY CHANCE FOR TRIAL AT THIS TERM; THAT HE HAD ALREADY BEEN IN JAIL EIGHT MONTHS</p>	<p>AS IT STOOD WHEN YOUR HONOR SERVED. BY COURT ARE THE DEFENSE READY. SUTHERLAND I DESIRE TO REQUEST IN AS MUCH AS THE INDICTMENT IS AGAINST WILLIAM H D ALSO THAT HE BE TRIED JOINTLY WITH THE OTHER DEFENDANT</p> <p>HE HAS BEEN IN PRISON FOR THE LAST 8 MONTHS AND UNLESS HE CAN OBTAIN TRIAL CONNECTION WITH OTHER DEFENDANT THERE IS NO PROBABILITY HE CAN BE TRIED AT THE PRESENT TERM FOR REASONS THAT ARE TOO OBVIOUS TO BE</p>	<p><b>J. G.</b> SUTHERLAND <b>FOR DEFENSE</b> THEN MADE ANOTHER ARGUMENT IN FAVOR OF LEE AND DAME BEING</p> <p>TRIED JOINTLY, CONTENDING THAT IT WAS DAMES ONLY CHANCE FOR TRIAL AT THIS TERM; THAT HE HAD ALREADY BEEN IN JAIL EIGHT MONTHS.</p>	<p>WHEN YOUR HONOR SIGNED IT [space] ≤COURT≥ IS THE DEFENSE READY [space] I DESIRE TO REQUEST IN AS MUCH AS THE INDICTMENT IS AGAINST WILLIAM H DAME ALSO THAT HE BE TRIED JOINTLY WITH THE OTHER DEFENDANT [space]</p> <p>HE HAS BEEN IMPRISONED FOR THE LAST 8 MONTHS AND UNLESS HE CAN OBTAIN A TRIAL IN CONNECTION WITH THE OTHER DEFENDANT THERE IS NO PROBABILITY THAT HE CAN BE TRIED AT THE PRESENT TERM [space] AND JURORS THAT DO NOT SIT IN THIS CASE WILL</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND THAT BOTH WERE INDICTED FOR THE SAME ACTS.)</p>	<p>MENTIONED.</p> <p>UNDOUBTEDLY BE DISQUALIFIED TO SIT ON FURTHER CASE. I SUBMIT TO YOUR HONOR THAT IT IS FOLLY TO KEEP MR. DAME IN IMPRISONMENT UNTIL ANOTHER TERM OR UNTIL ANOTHER GRAND LIST OF JURORS CAN BE MADE UP. PROSECUTION HAVE[?] –[?]<sup>51</sup> CAUSED THIS INDICTMENT TO BE FOUND AGAINST BOTH CHARGING THEM EQUALLY IN THE SAME MANNER WITH THE SAME ACTS MR. LEE IS READY FOR TRIAL MR. DAME IS READY FOR TRIAL IT IS A MATTER OF COURSE EXCEPT</p>	<p>THAT BOTH WERE INDICTED FOR THE SAME ACTS.</p>	<p>UNDOUBTEDLY HEAR ALL THE TESTIMONY IN THE CASE AND UNDOUBTEDLY BE UNQUALIFIED</p> <p>[[16]] AND I SUBMIT TO YOUR HONOR IF IT IS FAIR TO KEEP MR. DAME IN IMPRISONMENT UNTIL ANOTHER TERM OR ANOTHER LIST OF GRAND JURORS CAN BE MADE UP. PROSECUTION HAVE FOUND THIS INDICTMENT AGAINST BOTH [space]</p> <p>WITH THE SAME ACTS [space] LEE IS READY FOR TRIAL DAME READY FOR TRIAL [space] IT IS A MATTER OF COURSE</p>
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51. Word may be crossed out.

**RT**

**RS**

**BT**

**PS**

	<p>YOUR HONOR MAKES A RULING ALLOWING ONE TO BE TRIED SEPARATELY</p> <p>TO TRY TO BOTH ALL THAT ARE JOINTLY INDICTED AND ARRESTED THAT YOUR HONOR WILL NOT PERMIT AND SUPPORT THAT</p> <p>MOTION OF THE PEOPLE.</p> <p>CIRCUMSTANCE THAT MR. DAME HAS BEEN SO LONG IN PRISON HIS DEFENSE IS SO IDENTICAL WITH THE PRISONER AT THE BAR THERE IS A STRONG CLAIM THAT EXPRESSES ITSELF TO YOUR HONOR IN FAVOR OF A ◀JOINT TRIAL▶ AND AGAINST A SEPARATE TRIAL</p>		<p>ALLOWING ONE TO BE TRIED SEPARATELY IT IS A MATTER OF COURSE <del>TO BE</del> TO TRY BOTH AND WE ASK</p> <p>THAT YOUR HONOR WILL NOT PERMIT SEPARATE TRIAL ON THE MOTION OF THE PEOPLE. [space] THE CIRCUMSTANCE S THAT MR. DAME HAS BEEN SO LONG IN PRISON AND HIS DEFENSE IS SO IDENTICAL WITH THE PRISONER AT THE BAR THERE IS A STRONG CLAIM</p> <p>IN FAVOR OF A JOINT TRIAL AND AGAINST A SEPARATE TRIAL. [space] AND ONLY SOME VERY COGENT</p>
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**RT**

**RS**

**BT**

**PS**

<p>A CONTENTION THEREUPON ENSUED BETWEEN THE OPPOSING COUNSEL, IN THE MIDST OF WHICH SPICER</p> <p>INSISTED THAT</p> <p>PHILIP KLINGENSMITH BE ALSO PLACED ON TRIAL.</p> <p>CAREY</p> <p>ASSERTED THAT THE CHOICE RESTED WITH THE PROSECUTION AND BASKIN</p>	<p><i>WHY/WHILE[?]</i> FOR THE INTERESTS OF PUBLIC JUSTICE THIS SEPARATE TRIAL SHOULD GO ON WE INSIST THAT A TRIAL [<i>space</i>] SHOULD TAKE PLACE FOR BOTH. SPICER YOUR HONOR PLEASE AT THE SAME CONNECTION WE INSIST THERE IS ANOTHER IN THE COURT ROOM</p> <p>PHILIP K. SMITH HE SHOULD BE TRIED WITH THE OTHER DEFENDANT. CAREY COURT PLEASE THIS IS A MATTER I SUPPOSE IS LEFT PRINCIPALLY LEFT WITH THE PROSECUTION AS I</p>	<p>A CONTENTION ENSUED BETWEEN THE OPPOSING COUNSEL IN THE MIDST OF WHICH <b>MR</b> SPICER <b>FOR DEFENSE</b></p> <p>INSISTED THAT</p> <p>PHILIP KLINGENSMITH BE ALSO PLACED ON TRIAL.</p> <p><b>WM</b> CAREY U.S. <b>DISTRICT ATTORNEY</b> ASSERTED THAT THE CHOICE <del>TOOK</del> RESTED WITH THE PROSECUTION, AND <b>MR</b> BASKIN</p>	<p>REASON IS SUGGESTED ON THE OTHER SIDE WHY FOR THE INTEREST OF PUBLIC JUSTICE</p> <p>WE INSIST THAT A TRIAL TAKE PLACE ON</p> <p>BOTH [<i>space</i>] SPICER [<i>space</i>]</p> <p>WE WOULD INSIST THAT ANOTHER OF THE DEFENDANTS IN THAT INDICTMENT AND I UNDERSTAND UNDER AN ARREST P P K SMITH THAT HE SHOULD BE TRIED CONJOINTLY WITH THEM CAREY THIS IS A MATTER I SUPPOSE THAT IS LEFT PRIMARILY WITH THE PROSECUTION</p>
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**RT**

**RS**

**BT**

**PS**

<p>INTIMATED THAT SOME OF THE WITNESSES WERE NOT READY FOR DAMES TRIAL.</p> <p>JUDGE SUTHERLAND DENIED THAT THE PROSECUTION HAD ANY SUCH RIGHT TO SELECT FOR THEMSELVES.</p> <p>YOUR HONOR HAS THE DECISION.</p>	<p>UNDERSTAND IT [space]<sup>17</sup>52 COURT IN ITS DISCRETION MAY ALLOW TO PARTIES TO FIRST ON CRIMINAL LAW 433 AMERICAN. PROCEEDED TO READ SECTIONS COURT IN ITS DISCRETION MAY GRANT IT WE DO NOT WISH TO TRY THESE PARTIES TOGETHER. SUTHERLAND I DENY THEIR PLEA.</p> <p>DOCTRINE IS INVOKED BY STATUTE THAT YOUR HONOR HAS RIGHT TO ALLOW THE APPLICATION UNLESS SPECIAL APPLICATION IS MADE</p>	<p>INTIMATED THAT SOME OF THE WITNESSES MIGHT NOT BE READY FOR DAMES TRIAL.</p> <p><b>J. G.</b> SUTHERLAND: I DENY THAT THE PROSECUTION HAVE A RIGHT TO SELECT FOR THEMSELVES;</p> <p>YOUR HONOR HAYS THE DECISION.</p>	<p>AND COURT IN ITS DISCRETION MAY ALLOW TWO [space] WHERE TWO DEFENDANTS ARE INDICTED [space] FIRST RLTS/WRTS[?] CRIMINAL LAW 433 “WHEN SEVERAL PERSONS [space]. —[?] [space] . [space]</p> <p>SUTHERLAND [space] I DENY THEIR CLAIM TO HAVE A RIGHT TO ELECT FOR THEMSELVES THE DOCTRINE IS <sup>[[17]]</sup> INVOKED BY STATUTE THAT YOUR HONOR HAS THE DISCRETION TO ALLOW SEPARATE TRIALS UNLESS [space] UNITED[?] [space] BUT THE LAW[?] IF THEY</p>
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52. The verso of page 7 contains doodling: EVIDENTLY EVIDENCE IN THE.



**RT**

**RS**

**BT**

**PS**

	<p>BISHOP SAYS FIRST VOLUME HIS CRIMINAL PROCEDURE SECTION 10 18 WHEN AN INDICTMENT IS</p> <p>PROPERLY MADE JOINT AGAINST MORE PERSONS THAN ONE IT IS INDIVIDUAL RIGHT OF A DEFENDANT TO DEMAND SEPARATE TRIALS YET SEPARATE TRIALS MAY BE PERMITTED BY THE JUDGE ON CAUSES SHOWN. IT IS NOT TO BE DONE ON MERE REQUESTS BUT ON CAUSES SHOWN THIS IMPLIES LIGHT <i>ON</i>[?] <i>FELONY</i>—[?]. IT MAY EQUALLY BE MADE ON BEHALF OF THE STATE. IT IS THE <i>DOCTRINE</i>[?] SOME OF OUR STATES SEPARATE TRIAL MAY BE DEMANDED SOME STATES</p>		<p>ARE NOT [<i>space</i>] BISHOP SAYS [<i>space</i>] 1 [<i>space</i>]</p> <p>SECTION 10 18 “WHEN AN INDICTMENT IS MADE PROPERLY</p> <p>AGAINST MORE PERSON THAN ONE <b>&amp;C</b>” [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p><i>DEFENSE[?] ARE OTHERWISE GENERALLY IN SOME CASES DEMAND SEPARATE TRIALS AS MATTER OF RIGHT. WHERE IT IS ALLOWED TO THE STATE TO DEMAND IT AS MATTER OF RIGHT IT IS EXCEPTION WHERE IT IS MATTER OF RIGHT IN THE DEFENSE IT IS EXPRESSLY AND INTRODUCED BY STATUTE GENERAL DOCTRINE[?] AS IT STAND IT/OUT[?] COMMON LAW THUS IT STANDS HERE IT IS MATTER DISCRETION OF THE JUDGE SHOULD BE ACTED UPON IN FAVOR OF A SEPARATE TRIAL UPON CAUSE SHOWN CONTRARY AS YOU TAKE IT[?]</i></p> <p>A VERY</p>		<p>BUT WHERE IT IS ALLOWED TO THE STATE</p> <p>AS A MATTER OF RIGHT IT IS EXCEPTIONAL [space] AND OTHERWISE[?] THAT IS THEIR/THIS IS OTHER[?] [space]</p> <p>BUT[?] GENERAL DOCTRINE[?]</p> <p>AS THE OTHER SAYS IS A MATTER IN THE DISCRETION OF THE JUDGE AND TO BE ACTED UPON IN FAVOR OF SEPARATE TRIAL UPON CAUSE SHOWN [space] HERE WHEN CAUSES/CASES[?] HAS SHOWN UPON THE TRIAL A VERY</p>
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**RT**

**RS**

**BT**

**PS**

<p>AS TO WITNESSES BEING ABSENT</p> <p>THEY HAVE HAD EIGHT MONTHS TIME IN WHICH TO PROCURE THEM AND THE ASSERTION THAT THEY ARE NOT HERE HAS NO WEIGHT WHATEVER.</p>	<p>WEIGHTY AND COGENT SUGGESTION HAS BEEN MADE. BASKIN I HAVE THIS TO SAY TO YOUR HONOR SOME MATERIAL WITNESSES REFLECTING ON</p> <p>COMPLICITY OF DAME ARE ABSENT. THERE IS A DIFFERENCE IN THE TWO CASES. SUTHERLAND THEY HAVE HAD 8 MONTHS TO PREPARE FOR TRIAL</p> <p>THAT IS NOT ENTITLED TO ANY WEIGHT WHATEVER. FOR IF <i>CASE/KS</i>[?] THAT SOME WITNESSES NOT HERE IS A MATTER NOT ENTITLED TO ANY WAIT WHATEVER. I <del>HAVE STATED</del> BY COURT I HAVE STATED THAT I WILL HAVE</p>	<p>AS TO WITNESSES BEING ABSENT</p> <p>THEY HAVE HAD EIGHT MONTHS IN WHICH TO SECURE THEM, AND THE ASSERTION THAT THEY ARE NOT H RE HAS NO WEIGHT WHATEØVER.</p>	<p>WEIGHTY COGENT REASON IS MADE [<i>space</i>] BASKIN ≦I HAVE THIS TO SAY YOUR HONOR≧ SOME MATERIAL WITNESSES REFLECTED ON THE COMPLICITY OF DAME ARE ABSENT [<i>space</i>] WE DO NOT FEAR <i>CAUSE</i>[?] YOUR HONOR AND HAVE NO SHOW OF DILIGENCE AND MERE ANNOUNCEMEN T</p> <p>THAT [<i>space</i>] IS ENTITLED TO NO WEIGHT WHATEVER. [<i>space</i>] COURT IT WAS STATED IN COURT THE OTHER DAY THAT ONLY ONE OF THESE CASES <del>IS</del> WOULD BE TRIED THIS TERM [<i>space</i>] I HAVE NOT SAID SO I HAVE SAID ALWAYS THAT I</p>
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**RT**

**RS**

**BT**

**PS**

<p>THE COURT</p> <p>ANNOUNCED THAT IF THE TERM WAS EXHAUSTED BEFORE THESE CASES WERE DISPOSED OF HE SHOULD ASK THE GOVERNOR TO CONTINUE IT, AS HE WANTED THESE CASES OUT OF THE WAY.</p> <p>HE THEN DECIDED THE POINT UNDER DISCUSSION IN FAVOR OF THE PROSECUTION. <del>TO</del> TO WHICH RULING COUNSEL FOR DEFENSE THEN AND THERE EXCEPTED.</p>	<p>THESE TWO CASES TRIED THIS TERM IF IT TAKES EVERY JURYMAN IN THE BOX IF THIS CASE LASTS UNTIL THE FIRST OF SEPTEMBER I SHALL ASK GOVERNOR TO PUT OFF THE OTHER TERM FOR ONE MONTH AND COMPLETE THIS TRIAL</p> <p>I CAN'T SEE WE ARE LIKELY TO USE OVER A 100 MEN TO GET THIS JURY I CAN'T SEE IT IS LIKELY</p>	<p><sup>[11]</sup> THE COURT HERE ANOUNCED THAT IF THE TERM WAS EXHAUSTED BEFORE THESE <del>C</del>ASS CASES WERE DISPOSED OFF, HE SHOULD ASK THE GOVERNOR TO CONTINUE IT; AS HE WANTED THESE CASES OUT OF THE WAY.</p> <p>HE THEN DECIDED THE POINT <del>UND</del> UNDER DISCUSSION IN FAVOR OF THE PROSECUTION.</p>	<p>INTENDED TO HAVE BOTH OF THESE CASES</p> <p>IF THIS CASE IS LIKELY TO LAST UNTIL THE FIRST OF SEPTEMBER I SHALL ASK THE GOVERNOR TO PUT OFF THE TERM FOR ONE MONTH SO THAT WE CAN HAVE THIS TRIAL THIS TERM [space]</p> <p>I CAN SEE THAT WE ARE LIKELY TO EXCEED 100 MEN [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BECAUSE I DO NOT BELIEVE. SUTHERLAND I AM VERY OBLIGED TO YOUR HONOR THAT YOU ARE ANXIOUS TO HAVE DAME TRIED THIS TERM.</p> <p>SUTHERLAND I DO NOT THINK WE WILL PRESENT ANY SHOWING IN THIS MATTER AT ALL. BY COURT THESE MATTERS ARE GENERALLY LEFT TO THE DISCRETION OF THE COURT TO A GREAT EXTENT <sup>[8]</sup> YET COURT HAVE ALMOST ENTIRELY LEFT THIS MATTER</p>		<p>I AM VERY MUCH OBLIGED TO YOUR HONOR FOR THE ASSURANCE THAT WE SHALL HAVE A TRIAL THIS TERM <i>[space]</i> COURT WHAT I MEAN IS THAT IF YOU ON THE PROSECUTION EVER WANT A CONTINUANCE YOU WILL HAVE TO SHOW PRETTY SIGNIFICANT CAUSE BEFORE YOU GET IT</p> <p><i>[space]</i> THESE MATTERS ARE GENERALLY LEFT TO THE DISCRETION OF THE <sup>[[18]]</sup> COURT TO SOME EXTENT YET THE COURT ALMOST INVARIABLY IN MY PRACTICE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TO PROSECUTION. IF PROSECUTION WISH TO TRY THEM SEPARATELY THE COURT WILL GRANT IT <del>ALTHOUGH</del> THERE MIGHT BE CAUSE[?].</p> <p>AS GENERAL RULE THAT IS NOT THE PRACTICE. &lt;COURT RULED&gt; LET THE ENTRY BE MADE THAT MR. LEE BE TRIED SEPARATELY. [space] ARE THE DEFENSE READY. BISHOP WE'LL ASK YOUR HONOR WHICH INDICTMENT HE IS TO BE TRIED ON BY COURT ON THE SECOND INDICTMENT. BY COURT PROSECUTION IN ANSWER TO BISHOP ANNOUNCED</p>		<p>HAS ALWAYS ASKED THE PROSECUTION IF THEY WANT TO TRY THEM JOINTLY OR SEPARATELY UNLESS SOME VERY EXCELLENT REASON IS SHOWN AND [space] TRY THEM SEPARATELY [space] AS A GENERAL RULE HOWEVER THAT IS NOT THE PRACTICE [space]</p> <p>LET THE ENTRY BE MADE THEN THAT MR. LEE BE TRIED SEPARATELY. [space] IS THE DEFENSE READY. [space] BISHOP</p> <p>WHICH INDICTMENT WILL BE PROCEEDED ON. [space] ON THE JOINT INDICTMENT <del>IF/FOR JOINT</del>[?] [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>BISHOP:</p> <p>WE ANNOUNCED THAT WE WERE READY FOR TRIAL ON THE FIRST INDICTMENT BUT NOT ON THE SECOND.</p> <p>WE NOW ASK</p> <p>TILL TO-MORROW TO PREPARE FOR <sup>[12]</sup></p>	<p>ITSELF READY. CAREY HAS THE PLEA BEEN ENTERED BY COURT YES SIR. BY BISHOP COURT PLEASE WE HAVE ANNOUNCED OURSELVES READY FOR TRIAL UPON THE FIRST INDICTMENT</p> <p>WE CAN'T SAY AT THIS TIME WE ARE READY FOR TRIAL UPON THE INDICTMENT THAT THE DEFENDANT HAS BEEN ARRAIGNED UPON TODAY. IF THE PROSECUTION INSISTS UPON LETTING BOTH INDICTMENT STAND UPON THE RECORD WE WOULD ASK OF YOUR HONOR UNTIL TOMORROW MORNING TO</p>	<p><b>M<sup>r</sup> BASKIN</b> BISHOP:</p> <p>WE ANNOUNCED THAT WE WERE READY FOR TRIAL ON THE FIRST INDICTMENT BUT NOT ON THE SECOND.</p> <p>WE NOW ASK TO</p> <p>TILL TO-MORROW TO PREPARE FOR</p>	<p>BISHOP</p> <p>WE HAVE ANNOUNCED OURSELVES AS READY FOR TRIAL UNDER ON THE FIRST INDICTMENT ON</p> <p>THAT INDICTMENT WE ARE NOW READY FOR TRIAL WE CAN'T SAY AT THIS TIME THAT WE ARE READY FOR TRIAL UPON THE INDICTMENT THAT THE DEFENDANT HAS BEEN ARRAIGNED UPON TODAY AND IF THE PROSECUTION <del>ASKS</del> DECIDES THAT BOTH INDICTMENTS STAND [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>THE SECOND.</p>	<p>DECIDE WHETHER WE WE WILL GO TO TRIAL UPON THIS SECOND INDICTMENT OR NOT. EITHER PARTY HAS A RIGHT TO A CONTINUANCE DURING THE TERM WITHOUT A SHOWING AND WE ARE CERTAINLY NOT COMPELLED TO MAKE A SHOW OF IT UNTIL WE ASK FOR A CONTINUANCE.</p> <p>AT THE LAST TERM OF COURT CASE OF JOHN D. LEE WE INSISTED UPON A TRIAL. COURT NOTIFIED US AT THAT TIME IT HAD BEEN THE RULE UNLESS I AM MUCH MISTAKEN IN THE ANNOUNCEMEN T OF THE COURT THAT EITHER PARTY WOULD</p>	<p>THE SECOND.</p>	<p>EITHER PARTY HAS A RIGHT FOR CONTINUANCE DURING THE TERM WITHOUT A SHOWING AND WE ARE CERTAINLY NOT COMPELLED TO MAKE ANY SHOWING</p> <p>FOR A CONTINUANCE [space] COURT I DO NOT UNDERSTAND [space] AT THE LAST TERM OF COURT THE <del>DEFENSE</del> CASE OF JOHN D LEE HE INSISTED UPON TRIAL AND COURT NOTIFIED US AT THAT TIME THAT IT HAD BEEN THE RULE</p> <p>THAT EITHER PARTY WOULD</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BE PERMITTED</p> <p>CONTINUANCE FOR ONE TERM AFTER ARRAIGNMENT. IT WAS INSISTED AT THAT TIME T[?] BY PROSECUTION WE COULD NOT BE FORCED TO GO TO TRIAL</p> <p>DEFENDANT WAS NOT ARRAIGNED UNTIL THE COMMENCEMENT OF THE TERM. WE INSISTED HOWEVER UPON A TRIAL MATTER WAS AT LENGTH [space] IF THAT IS NOT THE RULE OF THE COURT WE HAVE BEEN LABORING UNDER VERY SERIOUS MISAPPREHENSION.</p>		<p>BE PERMITTED</p> <p>A CONTINUANCE FOR ONE TERM AFTER ARRAIGNMENT IT WAS INSISTED AT THAT TIME BY THE PROSECUTION THAT THEY COULD NOT BE FORCED TO GO TO TRIAL BECAUSE THE DEFENDANT WAS NOT ARRAIGNED UNTIL THE COMMENCEMENT OF THE TERM WE INSISTED UPON A TRIAL THE MATTER WAS HEARD AT GREAT LENGTH AND IF THIS IS NOT THE RULE WITH THE COURT WE HAVE BEEN LABORING UNDER A VERY SERIOUS MISAPPREHENSION [space] WE HAD A RIGHT TO CONTINUE WITHOUT ANY SHOWING DURING THE TERM THE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IF THEY WERE DISPOSED TO TRY ON THE FIRST INDICTMENT</p> <p>WILL THEN MAKE OUR INDICTMENT UNTIL THAT IS DONE WE MUST ASK INDULGENCE OF COURT UNTIL TOMORROW MORNING. WE COME HERE ASK FOR A TRIAL EXPECTING TRIAL UPON INDICTMENT WE HAVE STUDIED AND ARE PREPARED FOR. WE SHALL NOT BE READY FOR TRIAL UPON THIS INDICTMENT UNTIL FURTHER CONSULTATION. BASKIN.</p> <p>THIS INDICTMENT</p>		<p>PARTY WAS ARRAIGNED NOW <sup>[[19]]</sup> IF THEY ARE DISPOSED TO THE FIRST INDICTMENT IN SOME WAY WE WILL THEN MAKE OUR ANNOUNCEMEN T WE MUST THEN ASK THE INDULGENCE OF THE COURT</p> <p>WE CAME HERE</p> <p>EXPECTING A TRIAL ON THE INDICTMENT THAT WE HAD STUDIED AND PREPARED FOR WE CAN'T TELL</p> <p>UNTIL HAVE FURTHER CONSULTATION [space] BASKIN UNLESS GENTLEMEN [space] IT MUST BE SUPPOSED THE FACT OF THIS NEW INDICTMENT IT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>EVENTUALLY REFERS TO SAME TRANSACTION. KILLING OF ONE MAN. QUESTION OF OUR ELECTION IS A MATTER</p> <p>THEY HAVE NO RIGHT TO DICTATE TO US ABOUT.</p> <p>UNLESS SOME VERY COGENT REASON IS SHOWN “770 BISHOP FIRST CRIMINAL PROCEDURE.” READ FROM BISHOP RESPECTING QUASHING OF INDICTMENT PREVIOUS TO GOING TO TRIAL ON ANOTHER.</p>		<p>IS NOT ANOTHER CASE [space] AND WHILE IT DON'T APPEAR UPON THE FACE OF THE INDICTMENT THAT HE INDICTED ON EVENTUALLY REFERS TO THE SAME TRANSACTION HE HAS [space] THE QUESTION OF OUR ELECTION IS ONE THAT WE DO NOT THINK THEY HAVE ANY RIGHT TO DICTATE TO US [space] THE COURT WILL NOT QUASH THE SECOND INDICTMENT UNLESS SOME VERY COGENT” [space] 770 BISHOP CRIMINAL PROCEDURE 1ST “THAT[?] IS INFORMANT’S [space] PARTICULAR/OP PORTUNITY[?]” AND DID NOT APPEAR THAT THERE IS IN ANY OTHER OR ANY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THEY ANNOUNCED THEMSELVES READY FOR TRIAL CAME IN HERE AND PLEAD.</p> <p>I WANT THIS CASE TO GO ON</p> <p>DON'T WANT ANY FURTHER DELAY WHILE WE DESIRE GIVE PROSECUTION FAIR TRIAL CERTAINLY WILL NOT URGE ANY PROPOSITION OF LAW OR EVIDENCE THAT THE LAW DOESN'T WARRANT IN THE CASE PRAY YOUR HONOR <sup>[9]</sup> WILL BRING</p>		<p>SPS[?] WORK AND WE HAVE BEEN HERE A GREAT MANY DAYS AND GENTLEMEN HAVE ANNOUNCED THEMSELVES READY FOR TRIAL THEY WAS YESTERDAY MORNING AND I UNDERSTOOD TO ANNOUNCE THEMSELVES READY FOR TRIAL AND I MUST CONFESS THAT I DO NOT WANT <del>CONFESS</del> TO STAY DOWN HERE ANY LONGER I DO NOT WANT ANY FURTHER DELAY AND WHILE WE DESIRE GIVE THE DEFENSE A FAIR TRIAL AND CERTAINLY WILL NOT URGE ANY PROPOSITION OF LAW OR EVIDENCE THAT THE LAW WILL NOT WARRANT [space] I HOPE YOUR HONOR WILL BRING</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THIS TO AN ISSUE.</p> <p>◀BY COURT▶ I WILL GIVE THEM UNTIL TOMORROW MORNING TO DECIDE. BASKIN SITTING DOWN WE ARE READY IN ANY SHAPE</p> <p>OF COURSE IT IS UNDERSTOOD THEY WILL COME INTO COURT WITH A SHOW TOMORROW MORNING.</p>		<p>THIS TO A SHOW [space] AND IT IS NOT A QUESTION OF ELECTION TO THEM BUT IN THE DISCRETION OF THE COURT. [space] COURT I WILL GIVE THEM UNTIL TOMORROW MORNING ◀10 O’CLOCK▶ TO DECIDE [space] <del>BASKIN THERE IS THIS BUT/ABOUT[?]</del> WILL YOUR HONOR BASKIN OF COURSE IT IS UNDERSTOOD THAT THEY WILL COME IN WITH A SHOWING. YES SIR<sup>53</sup></p>
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53. The verso of page 19 contains a page of writing that appears to be random doodling and the profile of an unidentified man. The shorthand is as follows: REFERRED TO BY THE COUNSEL ON THE OTHER SIDE IF YOU WILL *BE/UP[?]* *MINE/MOTION/MAN[?]* I WILL NOT ASK YOU IF YOU FIND THE MINUTES INTELLIGENT. MISS *FANNY[?]* *SRLS/STRLS[?]* IS A VERY PRETTY GIRL AND THE LAW PROPOSES MAKE SOME GOOD *MOTION[?]* OVER HER IF IT IS A *K[?]* BUT SHE HAD NOT GOT ANY BIAS TO SPEAK OF. [space] MINISTERING WIVES [space] I AM HAPPY TO ASSUME HEALTH IS MUCH BETTER THAN IT WAS AND I AM NOW FEELING WELL *AND/BUT[?]* WE DO NOT HAVE MY DISCHARGE FROM THE *REST/RESOLUTION[?]* *NONE[?]* UNTIL CAME YESTERDAY I SHOULD HAVE BEEN DEAD GOOD WHILE BUT I SHALL MAKE ENOUGH TO LAST FOR A FEW MONTHS AT LEAST UNTIL I CAN MAKE SOME MORE [space] IF HE MEANT TO *ACCOMPANY ME/MEETING[?]* *NOT/UNDER[?]* LEGAL AND MAY GRANT [space] CAN’T *OFFER[?]* EXPENSE TO *GO[?]* TO *OUR[?]* —/*RESTING[?]* PLACE AND GIVE GENTLEMAN *COME[?]* *ANY[?]* MORE EXCUSES [space] ORDER.

**RT**

**RS**

**BT**

**PS**

<p>ANOTHER CONTENTION ENSUED WHEREIN JUDGE SUTHERLAND</p> <p>REMARKED THAT THE PROSECUTION SEEMED TO BE AFRAID FROM</p> <p>ONE INDICTMENT AND WANTED ANOTHER ON HAND TO ALIGHT UPON.</p> <p>TO WHICH MR. BASKIN REPLIED: I THINK YOU WILL FIND THAT WE UNDERSTAND</p>	<p>SUTHERLAND MADE SOME SARCASTIC REMARKS. BASKIN WE ARE PERFECTLY COOL[?] AND THINK WE UNDERSTAND OURSELVES. ADJOURNED UNTIL TOMORROW MORNING &lt;TEN&gt; O’CLOCK.</p> <p>MR. SUTHERLAND MADE THE REMARK TO</p> <p>PROSECUTION YOU MUST B AFRAID OF BEING UNHORSED ON ONE INDICTMENT AND WISH TO HAVE OTHER ONE TO JUMP ASTRIDE AS SOON AS YOU ARE DEFEATED ON ONE.</p>	<p>ANOTHER CONTENTION ENSUED WHEN MR. SUTHERLAND</p> <p>REMARKED THAT THE PROSECUTION SEEMED TO BE AFRAID OF BEING UNHORSED ON ONE INDICTMENT AND WANTED ANOTHER ON HAND TO ALIGHT UPON.</p> <p><b>M<sup>r</sup></b> BASKIN:</p> <p>I THINK YOU WILL FIND THAT WE UNDERSTAND</p>	<p>[[20]]</p> <p>SUTHERLAND</p> <p>IT LOOKS AS THOUGH THEY THINK THEY WOULD BE UNHORSED</p> <p>AND WANT HAVE OTHER READY TO LAND UPON. [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>OURSELVES. THE COURT GRANTED THE CONTINUANCE AND ADJOURNED TILL TEN O’CLOCK TO- MORROW MORNING.</p>	<p><i>[Bk 1 7 cont.]</i></p> <p><b>THURSDAY JULY 22/75 10 AM = TEN PASSED TEN JUDGE BOREMAN CAME INTO COURT. CLERK READ MINUTES YESTERDAY’S PROCEEDINGS. JOHN D LEE AND HIS 3 WIVES WERE IN COURT. BY SPICER YOUR HONOR I WAS NOT IN COURT YESTERDAY WHEN JUDGMENT WAS TAKEN AGAINST DUPAY[?] AND SUPPOSE SUBSTANCE OF AGREEMENT WAS 65 DAYS. THAT IS UNDERSTANDIN G. BY COURT EXECUTION BE STAYED FOR 75</b></p>	<p>OURSELVES. THE COURT GRANTED THE CONTINUENCE; AND ADJOURNED TILL 10 O’CLOCK TO- MORROW.</p>	<p><b>THURSDAY JULY 22/75 [space] IF YOUR HONOR PLEASE I DO NOT KNOW [space]</b></p>
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**RT**

**RS**

**BT**

**PS**

	<p>DAYS SUTHERLAND I HAVE NOT <i>HEARD/READ</i>[?] ORDER GRANTED YESTERDAY NUNC PRO TUNC. BISHOP COURT PLEASE WILL ASK PERMISSION NOW TO FILE REJOINDER OF JOHN D LEE TO REPLICATION OF PLEA. BY WHEDON COURT PLEASE WE WOULD LIKE TO OBJECT TO THE FILING OF THAT PAPER</p> <p>ON THE GROUND IT IS NOT PROPER. SUTHERLAND I WOULD LIKE TO KNOW WHAT THE OBJECTION IS. BY COURT THEY SAID IT WAS UNNECESSARY YESTERDAY. SUTHERLAND I SHOULD LIKE TO HAVE RULING ON THAT [<i>space</i>] BY COURT THEY DID NOT OBJECT</p>		<p><del>YOUR HONOR I HAVE NOT <i>HEARD/READ</i>[?] THE ORDER WHICH WAS [<i>space</i>]</del></p> <p>BISHOP [<i>space</i>] ASKED LEAVE</p> <p>TO FILE REJOINDER AS OF YESTERDAY [<i>space</i>] GRANTED [<i>space</i>]</p> <p>PROSECUTION OBJECTED TO THE FILING OF THAT PAPER AS OF YESTERDAY ON THE GROUND THAT IT IS NOT PROPER. SUTHERLAND I LIKE TO KNOW WHAT THE OBJECTION IS.</p> <p>I SHOULD HAVE TO HAVE A RULING ON THAT. [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BUT SAID IT WAS UNNECESSARY. BY HOGE THEY NOW OBJECT BY COURT WE CONSIDER IT AS FILED AT THAT TIME. BY SUTHERLAND WE DO NOT WANT THE RECORD TO SAY THERE WAS UNDER <i>TONED</i>[?] OBJECTION OUGHT TO BE DETERMINED. BY COURT IF YOU WANT OBJECTION ADDED THERE I WILL HAVE ONE NOTED. BY WHEDON COURT PLEASE NOTE OUR OBJECTIONS. BY COURT <i>RDI</i>[?] READ PEOPLE AGAINST LEE.</p> <p>SPICER YES SIR. BY COURT LET THE JURY BE CALLED. <i>[space]</i><sup>[8]</sup> CAREY IF THE COURT PLEASE I THINK</p>		<p>AS WE DO NOT WANT THE RECORD TO SHOW THAT THERE IS UNDETERMINED OBJECTION. <i>[space]</i></p> <p>OBJECTION OVERRULED. EXCEPTION <i>[space]</i> IS THE DEFENSE READY YES SIR <i>[space]</i></p> <p>IF THE COURT PLEASE I THINK</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PROBABLY IT IS ADVISABLE IN MAKING THIS ORDER OF CORRECTION TO MAKE IT APPLY TO ALL INDICTMENTS FILED ON THAT DAY. BY COURT IF YOU FILED ANOTHER <i>FR</i>—[?] YOU HAD</p> <p>BETTER HAVE IT ENTERED.</p> <p>SUTHERLAND I LIKE TO HAVE ORDER READ IN COURT BEFORE IT IS GIVEN THE CLERK IF AT ALL. BY COURT</p> <p>DO YOU PREFER TO HAVE NAMES OF THE JURORS AS THEY ARE DRAWN FROM THE BOX</p> <p>MARSHALL IS DRAWING THEM NOW. BISHOP WE SHOULD</p>		<p>IT IS PROBABLY ADVISABLE IN MAKING THIS ORDER FOR CORRECTION TO MAKE IT APPLY TO ALL INDICTMENTS FILED ON THAT DAY [<i>space</i>] COURT IT WAS ONLY ASKED AS TO THIS INDICTMENT. BETTER HAVE IT ENTERED SEPARATELY. SUTHERLAND WOULD LIKE TO HAVE THE ORDER READ IN COURT BEFORE IT IS GIVEN TO THE CLERK TO RECORD [<i>space</i>] COURT LET JURY BE DRAWN [<i>space</i>] WE WOULD WISH TO HAVE THE NAME OF EACH JURYMAN CALLED AS THEY ARE DRAWN FROM THE BOX AND LET'S PASS UPON EACH ONE SEPARATELY [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>LIKE TO HAVE EACH NAME DRAWN SEPARATELY BY COURT WE GENERALLY ALLOW CLERK TO DRAW TWELVE NAMES <i>ARE/HERE[?]</i> ALL THOSE PRESENT WILL COME FORWARD IF THERE IS NOT SUFFICIENT PRESENT WILL DRAW OTHERS. <i>[space]</i> ←BY CLERK→ JOSEPHUS WADE HERE. SUTHERLAND I WISH TO INQUIRE YOUR HONOR IF 50 BALLOTS BELONG TO THIS TERM IF THE NAME IN EACH CASE ARE TO BE DRAWN FROM THE BOX. BY COURT WE HAVE ALLOWED CLERK TO DRAW THEM FROM THE BOX</p> <p>SUTHERLAND WE DESIRE TO</p>		<p>GENERALLY ALLOW THE CLERK TO DRAW TWELVE NAMES AND THEN HAVE THEM COME FORWARD BUT YOU CAN HAVE EACH ONE CALLED SEPARATELY. <i>[space]</i></p> <p><b>JOSEPHUS WAITEDE</b> PRESENT <i>[space]</i> I WISH TO INQUIRE IF 50 BALLOTS ARE PLACED IN THE BOX AND THE NAMES FOR EACH AS IS DRAWN BE HELD FROM THAT BOX <del>NO</del> YES <i>[space]</i> BUT I WANT TO KNOW WHETHER YOU WANT EACH NAME ANNOUNCED AS THEY ARE DRAWN WE DESIRE TO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE NAMES DRAWN ANNOUNCED [space] <b>JOSEPHUS</b> ≤1⇒ <b>WADE</b> HERE. <b>J</b> ≤C&gt; <b>HIESTER</b> ≤2⇒<sup>54</sup> HERE. <b>DAVID</b> ≤3⇒ <b>ROGERS</b> HERE. BY COURT IS DAVID <b>ROGERS</b> IN THE BOX BY CLERK YES SIR. <b>ISAAC DUFFIN</b> ≤4⇒ HERE.</p> <p><b>C</b> <b>J</b> <b>ARTHUR</b> ≤5⇒ HERE. <b>J P</b> <b>CHIDESTER</b> ≤6⇒ HERE <b>LOUIS</b> <b>HESSENGER</b> ≤7⇒ HERE <b>J C</b> <b>ROBINSON</b> ≤8⇒ HERE. <b>HENRY HOLING</b> ≤9&gt; HERE. <b>W G</b> <b>MCMULLAN</b> BY COURT HE IS EXCUSED HIS</p> <p>WIFE IS SICK IN DANGEROUS SITUATION ABSOLUTE NECESSARY HE</p>		<p>HAVE THEM [space]</p> <p><b>J</b> <b>C</b> <del>HE</del> <b>AIESTER</b> PRESENT [space] [[20 verso]] <b>DAVID</b> <b>ROGERS</b> HERE [space]</p> <p><b>ISAAC DUFFIN</b> HERE [space]</p> <p><b>CHRISTOPHER</b> <b>J</b> <b>ARTHUR</b> HERE [space] <b>JOHN R</b> <b>CHIDDESTER</b> HERE [space] <b>LOUIS</b> <b>HEERCHENGER</b> HERE [space] <b>JAMES C</b> <b>ROBINSON</b> HERE [space] <b>HENRY HOLING</b> HERE [space] <b>WILLARD G</b> <b>MCMULLIN</b></p> <p>EXCUSED ON ACCOUNT OF SICKNESS OF HIS WIFE</p>
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54. The name is written over illegible shorthand.

**RT**

**RS**

**BT**

**PS**

	<p>SHOULD GO HOME I TOLD HIM IF HE WOULD SWEAR OUT AFFIDAVIT HE MADE AFFIDAVIT FILED IT WITH CLERK ALLOWED HIM TO GO UNDER THESE CIRCUMSTANCES EXCUSED FOR THE TERM. SAID HE LIVED SOME DISTANCE FROM HERE. [space] <b>JAMES LOW</b></p> <p>EXCUSED. <b>G W CROUCH</b> &lt;10&gt; HERE. <b>FRED J HALLER</b> &lt;11&gt; HERE <b>JAMES HUNTER</b> &lt;12&gt; HERE. [space] BY PROSECUTION MR. WADE BY COURT WAIT WE'LL HAVE THEM SWORN. [space]<sup>[9]</sup> GRAND JURY WERE SWORN BY CLERK. BY PROSECUTION MR. WADE AGAIN INTERRUPTED BY BASKIN. BY COURT</p>		<p>EXCUSED FOR THE TERM.</p> <p><b>JAMES LOWE SR.</b> [space] EXCUSED [space] <b>G W CROUCH</b> HERE [space] <b>FRED J. HALLOM</b> [space] HERE <b>JAMES HUNTER</b> HERE [space]</p> <p>SWORN TO ANSWER QUESTIONS ON THEIR VOIR DIRE [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE[?] YOU TO DEFENSE ANY OBJECTION TO MODE OF SWEARING REASON I ASK AS IT WAS NOT PROPER COURT RULE WHEN THAT ONE WAS TRIED ALTHOUGH OTHER WAS NEVER ARRESTED THAT IS THE REASON I HAD THEM SWORN THAT WAY. [space] CAREY AGAIN INTERRUPTED. //// BISHOP FOR DEFENSE COURT PLEASE WE PRESENT OUR OBJECTION N/NOT[?] TO FURTHER PROCEED DISTRICT SECOND JUDICIAL DISTRICT TERRITORY UTAH PEOPLE AGAINST JOHN D. LEE RESPONDENT BEING IN COURT TRIAL BEING NOW ORDERED JURY BEING NOW CALLED</p>		<p>BISHOP</p> <p>OBJECTED TO</p> <p>FURTHER PROCEEDING [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>SAID RESPONDENT OBJECTS CHALLENGES ARRAY <i>THR</i>[?] ON FOLLOWING GROUNDS TO WIT</p> <p>50 JURORS WERE DRAWN</p> <p>SAID 50 JURORS HAVE ACCORDINGLY BEEN SUMMONED</p> <p>JURORS SO IMPANELED</p> <p>ARE TWELVE</p> <p>SAID TWELVE JURORS WERE NOT FIRST OF SAID JURORS ETC. WHEREFORE SAID RESPONDENT SAYS</p> <p>IS NOT A LAWFUL JURY PRAYS COURT HAVE</p>		<p>READ CHALLENGES TO ARRAY [<i>space</i>] THAT ON THE 14 MAY 1875 BY <i>AND</i> <i>PURSUANT</i>[?] [<i>space</i>] 50 JURORS WERE DRAWN TO SERVE AT THE JULY TERM FOR THE YEAR 1875 AND SAID 50 JURORS HAVE</p> <p>BEEN CALLED SWORN TO ATTEND SAID JURORS THAT THE JURORS HERE ARE 12 OF THE 50 THAT THE SAID 12 JURORS ARE NOT OF THE FIRST 18 THAT THE SAID 12 JURORS SELECTED IMPANELED AND AS AFORESAID AND NOT OTHERWISE [<i>space</i>] THAT THE JURY SO IMPANELED IS NOT A LAWFUL JURY AND PRAYS THAT THE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>JUDGMENT BE QUASHED ON SAID ARRAY. BY COURT MOTION BE OVERRULED. BY BISHOP PLEASE NOTE OUR EXCEPTIONS BY COURT WHAT IS THE <i>STYLE/SL/STL</i>[?] OF YOUR MOTION BY BISHOP IT IS TO CHALLENGE ARRAY. BY HOGE <i>COURT MIGHT</i>[?] CONSIDER THEN GENTLEMAN'S DEMURRER</p> <p>FILED <sup>iiii</sup> BY COURT GO AHEAD FOR THE PEOPLE. [<i>space</i>]</p> <p>MR. WADE WHERE DO YOU RESIDE UTAH PIUTE COUNTY BY SUTHERLAND WE OBJECT <i>YOUR HONOR</i>[?] TO ANY QUESTIONS</p>		<p>BE QUASHED.</p> <p><del>MOTION OVERRULED. EXCEPTION.</del></p> <p>≠DEMURRER CONSIDERED FILED TO THE CHALLENGE.≧ DEMURRER SUSTAINED. EXCEPTION [<i>space</i>] <sup>[[21]]</sup> QUESTION <del>BY THE</del> BY CAREY FOR PROSECUTION [<i>space</i>] <b>WADE</b> [<i>space</i>] WHERE DO YOU RESIDE UTAH WHAT COUNTY PIUTE.</p> <p>SUTHERLAND OBJECTED</p> <p>TO ANY QUESTIONS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BEING ASKED</p> <p>UNTIL THE CHALLENGE IS INTERPOSED OTHERWISE THERE IS NOTHING TO TRY WE FIND NO BOOKS HERE BECAUSE ARE OBLIGED TO STATE LAW UPON RECOLLECTION. BY COURT MY RECOLLECTIONS IS OTHER WAY. [space] CAREY HOW LONG YOU RESIDED THIS DISTRICT 2 YEARS CAN READ AND WRITE ENGLISH LANGUAGE. ARE CITIZEN OF THE UNITED STATES NATIVE.</p> <p>HAVE TAXABLE PROPERTY. THIS QUESTION WAS REPEATED HAVE YOU ANY CONSCIOUS SCRUPLES</p>		<p>BEING ASKED INTERVIEW JURORS UNTIL CHALLENGE MADE. OBJECTION OVERRULED EXCEPTION [space]</p> <p>HOW LONG HAVE YOU RESIDED IN THIS DISTRICT 2 YEARS READ AND WRITE THE ENGLISH LANGUAGE YES SIR ARE YOU CITIZEN OF THE UNITED STATES YES SIR NATIVE OR NATURALIZED NATIVE HAVE TAXABLE PROPERTY YES SIR</p> <p>HAVE YOU ANY CONSCIOUS SCRUPLES AGAINST</p>
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**RT**

**RS**

**BT**

**PS**

	<p>FINDING VERDICT WHERE</p> <p>PUNISHMENT MIGHT BE DEATH BY BISHOP I OBJECT TO THAT QUESTION IN STYLE</p> <p>GENTLEMAN PUTS IT. I KNOW OF NO AUTHORITY TO ASK GENTLEMAN ABOUT PUNISHMENT OF DEATH UNLESS HE <i>COMPLIES/KPLS</i>[ ?] CAREY UNNECESSARY PRESSURE. BISHOP CONTINUED. CAREY WE HAVE NOT HAD ANY STATUTE OF THE KIND GENTLEMAN REFERS TO. BY BISHOP PLEASE NOTE OUR EXCEPTIONS.</p> <p>CAREY TO WADE I DO NOT KNOW AS I HAVE</p>		<p>FINDING VERDICT OF GUILTY WHERE THE PUNISHMENT MIGHT BE DEATH OBJECTED TO THAT QUESTION IN THE STYLE THAT THE GENTLEMAN POSED IT [<i>space</i>] UNLESS ASKS WHERE THE EVIDENCE WILL JUSTIFY THE VERDICT.</p> <p>OBJECTION OVERRULED EXCEPTION [<i>space</i>] QUESTION REPEATED [<i>space</i>] NO SIR I DO NOT KNOW THAT I HAVE. [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MR. HEISTER</p> <p>RESIDE PIUTE COUNTY</p> <p>LIVED THERE 2 YEARS TAXABLE PROPERTY CAN READ AND WRITE ENGLISH LANGUAGE CITIZEN</p> <p>NATIVE. HAVE YOU ANY CONSCIOUS SCRUPLES</p> <p>FINDING VERDICT</p> <p><del>I</del>HAVE I HAVE NOT. MR. ROGERS WHERE YOU RESIDE WASHINGTON COUNTY LIVED THERE 13 1/2 YEARS TAXABLE PROPERTY READ AND WRITE CITIZEN UNITED STATES NATIVE. NO CONSCIOUS SCRUPLES WERE PUNISHMENT</p>		<p><i>HEISTER/HISM[?]</i> <i>[space]</i> WHERE DO YOU RESIDE PIUTE COUNTY HOW LONG LIVED THERE NEARLY 2 YEARS TAXABLE PROPERTY YES SIR READ AND WRITE ENGLISH LANGUAGE I DO CITIZEN OF THE UNITED STATES YES SIR NATIVE HAVE YOU ANY CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE THE PENALTY MIGHT BE DEATH I HAVE NOT <i>[space]</i> ROGERS <i>[space]</i> WHERE DO YOU RESIDE WASHINGTON COUNTY HOW LONG RESIDED THERE 13 YEARS AND HALF TAXABLE PROPERTY YES SIR READ AND WRITE YES SIR CITIZEN YES SIR NATIVE OR NOT NATIVE CONSCIOUS SCRUPLE NO SIR <i>[space]</i></p>
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**RT**

**RS**

**BT**

**PS**

	<p>MIGHT BE DEATH. MR. DUFFIN WHERE YOU RESIDE KANE COUNTY</p> <p>LIVED THERE TEN YEARS TAXABLE PROPERTY READ AND WRITE CITIZEN NATIVE NATURALIZED</p> <p>IN THIS DISTRICT JUDGE MCCURDY'S COURT THIS DISTRICT. JUDGE WAS PRESENT WHEN NATURALIZED. NO CONSCIOUS SCRUPLES</p> <p><b>C</b> <b>J</b> ARTHUR BY WHEDON MR. ARTHUR IS SUBPOENAED AS WITNESS IN CASE. TO MR. WADE HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO GUILT</p> <p>OF <sup>[10]</sup> THE</p>		<p>DUFFIN [space] [[22]] WHERE DO YOU RESIDE KANE COUNTY [space] HOW LONG RESIDED THERE 10 YEARS A LITTLE OVER TAXABLE PROPERTY YES SIR CITIZEN YES SIR</p> <p>NATURALIZED WHERE NATURALIZED IN THIS DISTRICT JUDGE MCCURDY'S COURT IS IT CHARGED IN OPEN COURT YES SIR HAVE YOU ANY CONSCIOUS SCRUPLES NO SIR [space] CHRISTOPHER D J ARTHUR [space] WERE YOU SUBPOENAED AS A WITNESS IN THE CASE YES SIR [space] WADE HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE GUILT OR INNOCENCE AS TO THE —[?]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PRISONER AT BAR. I HAVE ONE WAY PROVED HE IS GUILTY ACCORDING TO EVIDENCE OUGHT TO BE PUNISHED. <b>EASTES</b></p> <p>HAVE YOU FORMED OR EXPRESSED ANY OPINION WITH REGARD PRISONER AT BAR</p> <p>I HAVE AT ONE TIME I HAVE NO OPINION AT THE PRESENT.</p> <p>MR. ROGERS DO YOU KNOW ANYTHING OF THE MERITS OF THIS CASE</p>		<p>PRISONER AT THE BAR I HAVE IN ONE WAY PROVING HE WAS GUILTY THAT HE</p> <p>OUGHT TO SUFFER [space] WHAT IS THE GENERAL OPINION [space] WHETHER YOU HAVE FORMED OR EXPRESSED AN OPINION OF THE GUILT OR INNOCENCE OF THE PARTY I COULD NOT SAY THAT I HAVE MR. HEISTER HOW IS IT WITH YOU [space] HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE GUILT OR INNOCENCE I DID AT ONE TIME HAVE YOU AN OPINION NOW AT THE PRESENT TIME NO SIR I HAVE NOT [space] MR. ROGERS [space] DO YOU KNOW ANYTHING ABOUT THE MERITS OF THIS CASE NOTHING</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE INNOCENCE OR GUILT OF JOHN D LEE</p> <p>NO SIR.</p> <p>MR. DUFFIN HAVE YOU FORMED OR EXPRESSED ANY OPINION. I HAVE NOT I</p> <p>HAVE HEARD OF THE CASE. [space] BY SUTHERLAND I DO NOT UNDERSTAND ANY CHALLENGE TO BE PENDING. MR. ARTHUR WHERE DO YOU RESIDE</p> <p>LIVED THERE 21 YEARS. YOU WERE THEN IN 57 YES SIR.</p> <p>NATURALIZED CITIZEN IN THIS COURT IN THIS</p>		<p>MORE THAN RUMOR [space] HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE GUILT OR INNOCENCE OF JOHN D. LEE PRISONER AT THE BAR NO SIR YOU KNOW WHAT THE CHARGE IS YES SIR [space] DUFFIN HAVE YOU FORMED OR EXPRESSED OPINION I HAVE NOT THAT I KNOW OF [space] [123] YOU HAVE HEARD OF THE CASE YES SIR [space]</p> <p>ARTHUR WHERE DO YOU RESIDE CEDAR CITY HOW LONG HAVE YOU LIVED THERE 21 YEARS LIVED THERE IN 57 YES SIR [space] NATURALIZED WHERE IN THIS COURT IN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PLACE</p> <p>CAN READ AND WRITE ENGLISH LANGUAGE. HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO GUILT OF DEFENDANT. SAY LIKE SEVERAL OTHERS HAVE</p> <p>I DO NOT KNOW I HAVE EXPRESSED ANY OPINION. YOU KNOW MR. ARTHUR WHETHER YOU HAVE FORMED OPINION ON</p> <p>WHETHER PARTY IS INNOCENT OR GUILTY. &lt;ARTHUR&gt; IT IS DOUBTFUL UPON THAT POINT. BY COURT QUESTION IS WHETHER YOU</p>		<p>WHOSE TIME JUDGE BOREMAN'S READ AND WRITE THE ENGLISH LANGUAGE I DO HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE GUILT OR INNOCENCE OF THE PRISONER</p> <p>AS SOME OTHERS HAVE FORMED IMPRESSIONS RECEIVED IMPRESSIONS I DO NOT KNOW THAT I HAVE EXPRESSED OPINION YOU KNOW</p> <p>WHETHER YOU HAVE FORMED OPINION IN YOUR OWN MIND AS TO WHETHER PARTY IS INNOCENT OR GUILTY OF THE CHARGE WELL IT IS DOUBTFUL I AM DOUBTFUL ON THAT POINT</p> <p>QUESTION IS WHETHER YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE FORMED ANY OPINION AS TO GUILT OR INNOCENCE. ARTHUR I CAN NOT SAY I HAVE. I WAS LIVING AT CEDAR AT TIME</p> <p>CIRCUMSTANCE S HAPPENED I WAS. DO YOU SAY YOU</p> <p>HAVE NOT SINCE FORMED OPINION I DO NOT THINK I HAVE. SPICER I UNDERSTAND IT IS ONLY MR. LEE UPON TRIAL NOW.</p> <p>HAVE YOU CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH NONE. MR. CHIDESTER</p> <p>LIVED</p>		<p>HAVE FORMED AN OPINION AS TO THE GUILT OR INNOCENCE I CAN'T SAY I HAVE [space] YOU WERE LIVING AT CEDAR AT THE TIME YES SIR KNEW OF THE CIRCUMSTANCE S YES SIR DO YOU SAY YOU DID NOT AT THAT TIME OR HAVE NOT SINCE HAD AN OPINION AS TO WHETHER THE PARTY WAS IMPLICATED IN IT OR NOT NO SIR I DO NOT THINK I HAVE [space] HAVE YOU ANY CONSCIOUS SCRUPLES [space]</p> <p>WHERE THE PENALTY MIGHT BE DEATH NO SIR [space] MR. CHIDESTER [space] WHERE DO YOU RESIDE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WASHINGTON LIVED THERE 12 YEARS CITIZEN UNITED STATES NATIVE READ AND WRITE TAXABLE PROPERTY.</p> <p>ANY SCRUPLES AGAINST FINDING VERDICT. DO YOU KNOW PRISONER AT THE BAR I AM NOT ACQUAINTED WITH HIM I KNOW HIM WHEN I SEE HIM. HAVE NOT FORMED ANY OPINION OR EXPRESSED.</p> <p>WHERE WERE YOU LIVING AT THIS TIME I WAS LIVING AT SPANISH FORK.</p> <p>HESSINGER</p> <p>RESIDE BEAVER COUNTY</p>		<p>WASHINGTON HOW LONG THERE 12 YEARS CITIZEN YES SIR NATIVE OR NOT NATIVE</p> <p>TAXABLE PROPERTY YES SIR READ AND WRITE YES SIR CONSCIOUS SCRUPLES NO SIR [<i>space</i>]</p> <p>DO YOU KNOW THE PRISONER AT THE BAR I AM NOT ACQUAINTED WITH HIM I KNOW WHEN I SEE HIM [<i>space</i>] FORMED OR EXPRESSED OPINION AS TO GUILT OR INNOCENCE NO SIR WHERE WERE YOU LIVING AT THE TIME</p> <p>SPANISH FORK [<i>space</i>] MR. HESSINGER [<i>space</i>] WHERE DO YOU RESIDE BEAVER COUNTY HOW LONG [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HERE 3 YEARS.</p> <p>MY FATHER WAS CITIZEN BEFORE I WAS OF AGE. BY CAREY IN MISSOURI? YES SIR.</p> <p>HAVE YOU ANY CONSCIOUS SCRUPLES AGAINST FINDING VERDICT</p> <p>NO SIR I DO NOT KNOW</p> <p>PRISONER AT THE BAR. ≤HAVE YOU FORMED ANY OPINION&gt; IN MATTER IF SUCH THING HAPPENED AS PAPER STATES AND PEOPLE SPEAKING ABOUT SHAME IF GOVERNMENT HAD NOT DONE SOMETHING IN CASE</p>		<p>HERE 3 YEARS CITIZEN OF THE UNITED STATES MY FATHER WAS A CITIZEN BEFORE I WAS OF AGE YOU ARE FROM MISSOURI YES SIR [space] <sup>[[24]]</sup> READ AND WRITE THE ENGLISH LANGUAGE YES SIR HAVE YOU ANY CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE THE PENALTY MIGHT BE DEATH NO SIR ACQUAINTED [space] WITH THE PRISONER NO SIR [space] FORMED OR EXPRESSED NO MORE THAN IF I HAVE SAID IF SUCH THING</p> <p>IT WAS A SHAME IF THE GOVERNMENT HAD NOT DONE ANYTHING ABOUT THE CASE YEARS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BEFORE I HAVE NOT FORMED ANY OPINION. MR. ROBINSON LIVED</p> <p>PARAGONAH 18 YEARS</p> <p>NATIVE BORN READ AND WRITE TAXABLE PROPERTY. NO CONSCIOUS SCRUPLES</p> <p>I BELIEVE NOT.</p> <p>I HAVE SAW HIM SEVERAL TIMES KNOW HIM WHEN I HIM. I OWNED WERE ACQUAINTED SOME I HAVE SEEN SEVERAL TIMES</p> <p>NO CONNECTION OF HIS EITHER BY MARRIAGE.</p>		<p>AGO I HAVE NOT FORMED AN OPINION MR. ROBINSON [space] IRON COUNTY HOW LONG 18 YEARS WHAT PLACE PARAGONAH [space] CITIZEN YES SIR NATIVE READ AND WRITE YES SIR TAXABLE PROPERTY YES SIR CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE THE PENALTY MIGHT BE DEATH NO SIR DO YOU KNOW THE PRISONER AT THE BAR I HAVE SEEN HIM SEVERAL TIMES</p> <p>HOW LONG BEEN ACQUAINTED WITH HIM I AM NOT REALLY ACQUAINTED WITH HIM BUT I HAVE SEEN HIM 6 OR 7 YEARS AGO ANY CONNECTION OF HIS NO SIR FORMED OR EXPRESSES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>I HAVE FORMED OPINION BY COURT YOU WILL STAND ASIDE.</p> <p><b>HOLING</b> LIVED HERE 3 YEARS CITIZEN UNITED STATES NATURALIZED</p> <p><b>SIERRA</b> COUNTY CALIFORNIA</p> <p>NOT FORMED ANY OPINION</p>		<p>OPINION AS TO HIS GUILT [<i>space</i>] I HAVE FORMED AN OPINION CHALLENGED AND EXCUSED [<i>space</i>] WHERE DO YOU RESIDE BEAVER COUNTY HOW LONG HERE 3 [<i>space</i>] YEARS CITIZEN YES</p> <p>NATURALIZED WHERE</p> <p>CALIFORNIA DO YOU READ AND WRITE THE ENGLISH LANGUAGE YES SIR TAXABLE PROPERTY YES SIR CONSCIOUS SCRUPLES NO SIR [<i>space</i>] <del>SPICER</del> SPICER YOU CAN ASK HIM ANY QUESTION YOU WISH TO ROBINSON [<i>space</i>]</p> <p>NOT ANY CONNECTION OF HIS HAVE YOU FORMED OR EXPRESSED OPINION AS TO HIS GUILT OR</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BY SPICER I UNDERSTAND MR. ROBINSON WAS EXCUSED BY MOTION OF COURT RULE OF LAW AND UNDERSTAND AS HE HAS FORMED OPINION. BY SUTHERLAND WE HAVE NOT ASKED HIM ANY <sup>[[1]]</sup> QUESTIONS YET. <b>HOLING</b> I HAVE SEEN PRISONER. HAVE NOT FORMED OR EXPRESSED ANY OPINION ABOUT MATTER. <b>G W</b> CROUCH.</p> <p>RESIDE BEAVER LIVED HERE 5 OR 6 YEARS READ AND WRITE</p> <p>CITIZEN NATIVE. ANY CONSCIOUS SCRUPLES WHERE PUNISHMENT IS DEATH I KNOW THE PRISONER</p>		<p>INNOCENCE <del>NO</del> I HAVE NOT</p> <p>GEORGE W CROUCH [<i>space</i>] WHERE DO YOU RESIDE BEAVER HOW LONG FIVE OR 6 YEARS READ AND WRITE ENGLISH LANGUAGE YES SIR CITIZEN YES SIR <sup>[[25]]</sup> NATIVE CONSCIOUS SCRUPLES NO SIR</p> <p>KNOW THE PRISONER</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AT THE BAR. I HAVE FORMED</p> <p>AN OPINION AS TO GUILT OR INNOCENCE.</p> <p><b>HELLER</b></p> <p>LIVE PIUTE COUNTY 5 OR 6 YEARS CITIZEN NATIVE READ AND WRITE ENGLISH LANGUAGE. HAVE YOU</p> <p>SCRUPLES AGAINST FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH I DO NOT KNOW PRISONER AT BAR AM NO CONNECTION OF HIS.</p> <p><b>MR. HUNTER</b></p> <p>LIVED BEAVER COUNTY</p>		<p>AT THE BAR HAVE YOU FORMED OR EXPRESSED OPINION AS TO HIS GUILT OR INNOCENCE YES SIR [space] FRED J HALLER WHERE DO YOU LIVE PIUTE COUNTY HOW LONG 6 YEARS CITIZEN NATIVE READ AND WRITE YES SIR</p> <p>HAVE YOU ANY CONSCIOUS SCRUPLES</p> <p>I HAVE NOT DO YOU KNOW THE PRISONER AT THE BAR NO SIR ANY CONNECTION WITH HIS HAVE YOU FORMED OR EXPRESSED ANY OPINION I HAVE NOT [space] <del>MR.</del> <del>HAMILTON</del> [space] HUNTER [space] WHERE RESIDE BEAVER COUNTY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BEAVER 5 OR 6 YEARS  CITIZEN UNITED STATES  NATIVE BORN READ AND WRITE  ENGLISH LANGUAGE</p> <p>SCRUPLES AGAINST FINDING  VERDICT NONE SIR. I ONLY KNOW  PRISONER AT BAR BY SIGHT  I HAVE FORMED</p> <p>OPINION</p> <p>YES SIR [space]  MR. ROGERS ARE YOU  CONNECTION OF MR. LEE'S  REMARKED[?] NONE OF  JURORS WERE CONNECTION  EITHER BY MARRIAGE. MR.  ROBINSON MR. CROUCH AND  MR. HUNTER ALL SAY THEY  HAVE FORMED AND EXPRESSED  OPINIONS. BY COURT TO  DEFENSE DO</p>		<p>FIVE OR 6 YEARS [space]  CITIZEN UNITED STATES YES SIR  NATIVE BORN READ AND WRITE THE  ENGLISH LANGUAGE YES  SIR CONSCIOUS SCRUPLES</p> <p>YES[?]  SIR  KNOW THE PRISONER  BY SIGHT HAVE YOU  FORMED OR EXPRESSED  OPINION AS TO HIS GUILT OR  INNOCENCE YES SIR I HAVE  [space] ROGERS ARE YOU A  CONNECTION OF MR. LEE'S ARE  YOU NO SIR PREJUDICED[?]  NO SIR [space] DEFENSE [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>YOU WISH TO ASK ANY QUESTIONS. <i>iiii</i> CAREY IF GENTLEMEN WISH TO MAKE POINT OF THAT MATTER I WILL CHALLENGE MR. ROBINSON FIRST. <i>iiii</i> SPICER MR. ROBINSON IN ANSWER TO QUESTIONS OF PROSECUTION YOU SAY YOU HAVE FORMED OPINION IS</p> <p>THAT ONE YOU HAVE MADE UP IN YOUR MIND IS IT SUBJECT TO BE CHANGED</p> <p>SO OR SO IS IT AN UNQUALIFIED OPINION.</p> <p>I WILL ASK WITNESS IF IT IS FIXED DECIDED OPINION <del>BY</del> CAREY</p>		<p>MR. ROBINSON IN ANSWER TO QUESTION OF PROSECUTION SAY YOU HAVE FORMED AN OPINION INQUIRED OF YOU IF THAT OPINION IS ONE THAT YOU HAVE MADE UP IN YOUR MIND OR ONE <i>UPON</i>[?] <i>GENTLEMEN/GE</i> <i>NTELMAN</i>[?] SPOKEN OF WHETHER THE EVIDENCE MAY <i>BE SO AND SO</i>[?] WHETHER IT IS AN UNQUALIFIED OPINION OBJECTED TO [<i>space</i>] IF YOU HAVE DETERMINED <i>HAVE SAID</i>[?] A CERTAIN FIXED DECIDED OPINION OBJECTED TO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WAY I LOOK AT IT MAN THAT HAS HEARD REMARKS AROUND CAN'T HELP BUT HAVE FORMED OPINION IN HIS OWN MIND CAN NOT JUDGE UNTIL HE HEARS CASE FROM BOTH SIDES</p> <p>MAN THAT HAS GOT EARS IS BOUND TO HEAR WHEN HE HEARS WHAT MAN HAS DONE HE HAS GOT MIND OF HIS OWN AND THINKS FOR HIMSELF SO FAR I HAVE FORMED OPINION I DO NOT KNOW WHETHER YOU WILL CALL IT FIXED</p> <p>YOU MIGHT CALL IT IMPRESSION OR HEAR SAY. IT IS YOUR</p>		<p><i>THINK[?] I HAVE A RIGHT TO THE WAY I LOOK AT IT A MAN THAT HAS HEARD THE RUMORS AROUND CAN'T HELP BUT FORM AN OPINION [space] HE HAS GOT OPINION IF IT IS OPINION WHEN HE HEARS THE OTHER SIDE HE IS CAPABLE OF JUDGING FOR HIMSELF [space] A MAN HAS GOT EARS HE IS BOUND TO HEAR <del>WHERE</del> WHEN HE HEARS WHAT MEN HAVE DONE HE HAS GOT A MIND OF HIS OWN AND THINKS FOR HIMSELF SO FAR I HAVE FORMED AN OPINION [space]</i></p> <p>HAVE YOU A FIXED OPINION <i>[[26]]</i> IS IT A MERE IMPRESSION OR OPINION [space] YOU MIGHT CALL IT AN IMPRESSION OR HEARSAY [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>OPINION THAT YOU ARE PREPARED TO DECIDE IT NOW WITHOUT ANY FURTHER TESTIMONY. WOULD IT REQUIRE SWORN TESTIMONY TO REMOVE THAT OPINION OBJECTED TO BY CAREY SUTHERLAND WILL TAKE THE RULINGS OF THE COURT. BY SPICER HAVE YOU SUCH AN OPINION NOW AS IT WOULD REQUIRE SWORN TESTIMONY TO REMOVE</p> <p>“I CAN NOT SAY IT WOULD” I HAVE NOT HEARD WHAT YOU MIGHT SAY BOTH SIDES JUST HEARD FLYING REPORT I HAVE OPINION OF MY OWN AS FAR AS I HAVE</p>		<p><del>PREPARED</del> [space]</p> <p>WOULD IT REQUIRE SWORN TESTIMONY TO REMOVE THAT IMPRESSION [space] OBJECTED TO [space] OVERRULED [space]</p> <p>HAVE YOU SUCH AN OPINION NOW AS IT WOULD REQUIRE SWORN TESTIMONY TO REMOVE IN ORDER THAT YOU MIGHT RENDER FAIR AND IMPARTIAL VERDICT [space] I CAN’T SAY THAT IT WOULD BECAUSE I HAVE NOT HEARD WHAT YOU MIGHT CALL BOTH SIDES I HAVE ONLY HEARD FLYING REPORTS [space]</p> <p>THEN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HEARD HAVE MADE UP MY MIND UPON WHAT I HAVE HEARD. [space]</p> <p>I HAVE</p> <p>CONCLUDED MY MIND UPON WHAT I HAVE HEARD.</p> <p>BY CAREY IF THE COURT PLEASE I WILL WITHDRAW MY CHALLENGE. ≤SPICER≥ WE HAVE NO CHALLENGE TO MAKE BY COURT HAVE YOU ANY QUESTIONS TO ASK WITH REGARD TO MR. CROUCH AND HUNTER. SPICER AND CAREY DO YOU CHALLENGE MR. CROUCH WE DO NOT CHALLENGE ANY BODY <sup>[12]</sup> BY SPICER WE CHALLENGE MR. CROUCH FOR CASE. MR. CAREY ASKED CROUCH</p>		<p>YOU HAVE MADE UP YOUR MIND UPON WHAT YOU HAVE HEARD YES SIR [space] UPON WHAT YOU HAVE HEARD YOU HAVE MADE UP YOUR MIND CONCLUDING A CONCLUSION OF GUILT OR INNOCENCE OF THE PARTY YES SIR [space] CAREY</p> <p>WITHDRAWS CHALLENGE [space] PASSED [space]</p> <p>MR. CROUCH CHALLENGED FOR CASE BY DEFENSE [space] ≤CAREY TO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>QUESTION          JUDGE          OBJECTED TO          THE QUESTION.          BY CAREY HAVE          YOU FIXED          OPINION YES SIR          I HAVE          WELL          DEFINED          OPINION ABOUT          IT. BY COURT          YOU WILL          STAND ASIDE          THAT IS          SUFFICIENT.          CLERK READ          NAME OF JOSEPH          KNIGHT HERE.          SWORN BY          CLERK. BY          CAREY WHERE          DO YOU LIVE          IRON COUNTY            PANGUITCH            3 ≪LIVED          THERE&gt; 3 YEARS          HOW HAVE YOU          LONG LIVED          THIS DISTRICT 7          OR 8 YEARS.          CITIZEN UNITED          STATES          NATIVE            HOW          LONG YOU          LIVED IN          TERRITORY          ≪SOME&gt; 20          YEARS.</p>		<p>MR. CROUCH&gt; IS          YOUR OPINION          AN          UNQUALIFIED          ONE            I HAVE A          PRETTY WELL          DEFINED          OPINION ABOUT          IT [space]          CHALLENGE          SUSTAINED          [space]            DRAWN  <b>JOSEPH          KNIGHT</b>          SWORN ON HIS          VOIR DIRE [space]          WHERE          DO YOU LIVE          IRON COUNTY          WHAT PLACE          PANGUITCH          HOW LONG YOU          LIVED          THERE 3          YEARS          HOW          LONG IN          THIS DISTRICT 7          OR 8 YEARS          CITIZEN UNITED          STATED YES SIR          NATIVE OR          NATURALIZED          NATIVE HOW          LONG          IN THE          TERRITORY          SOME 20          YEARS YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>READ AND WRITE</p> <p>YES SIR ANY</p> <p>SCRUPLES AGAINST FINDING VERDICT NO SIR DO YOU KNOW PRISONER AT THE BAR I AM SOMEWHAT ACQUAINTED WITH HIM</p> <p>I HARDLY KNOW WHERE HE DOES LIVE PORTION OF HIS FAMILY LIVE SAME PLACE MINE NO CONNECTION TO ME EITHER BY MARRIAGE.</p> <p>I KNOW NOTHING ABOUT HIS GUILT OR INNOCENCE HAVE NOT FORMED ANY OPINION HAVE HEARD IT TALKED ABOUT. AT TIME OF</p>		<p>READ AND WRITE THE ENGLISH LANGUAGE YES SIR ANY CONSCIOUS SCRUPLES WHERE THE PENALTY [space] NO SIR DO YOU KNOW THE PRISONER AT THE BAR I AM SOME ACQUAINTED WITH HIM [space] I LIVE IN THE SAME TOWN WITH HIM [space] I HARDLY KNOW WHERE HE DOES LIVE A PORTION OF HIS FAMILY LIVES IN THE SAME TOWN I BELIEVE [space] NO CONNECTION OF HIS NOR SIR NEITHER BY MARRIAGE NOR OTHERWISE NO SIR [space] HAVE YOU FORMED OR EXPRESSED [space] ABOUT THE GUILT OR INNOCENCE [space] NO SIR I HAVE FORMED NO OPINION HAVE YOU HEARD IT TALKED ABOUT YES SIR</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CIRCUMSTANCE</p> <p>I WAS MAKING HOME IN PROVO CITY BY SPICER WILL CHALLENGE JAMES HUNTER FOR CASE BY COURT WHILE AGO YOU SAID IT WAS NOT SUFFICIENT GROUND BY HOGE WE HAVE NOT CHALLENGED MR. HUNTER AT ALL. SOME DEBATE BETWEEN HOGE AND COURT ABOUT OBJECT OF OBJECTION. THERE SEEMS TO BE SOME MISTAKE BETWEEN —/YOU AND[?] COURT. MR. HUNTER IS THAT OPINION</p> <p>BASED UPON WHAT YOU HAVE HEARD TALKED OVER ABOUT THIS CASE YES</p>		<p>WHERE WERE YOU LIVING IN 57 ≪MAKING MY HOME≫ PROVO CITY [space] DEFENSE CHALLENGED MR. JAMES HUNTER FOR CASE [space] COURT THE COUNSEL HELD THAT THERE WAS NOT SUFFICIENT GROUND IN THE CASE OF ROBINSON <sup>[[27]]</sup> DEFENSE QUESTIONED MR. HUNTER [space]</p> <p>IS THAT OPINION OF YOURS BASED UPON WHAT YOU HAVE HEARD TALKED OVER IN CONNECTION TO THIS CASE YES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>SIR IS IT A DECIDED OPINION YES SIR BY COURT YOU WILL STAND ASIDE.</p> <p>CLERK CALLED NAME OF <b>ELIJAH ELLMORE.</b><sup>55</sup> CLERK SWORE HIM. BY COURT REFERENCE TO ARTHUR BEING WITNESS IN CASE. CAREY MR. ELMORE RESIDE PANGUITCH HOW LONG YOU LIVED THERE 2 YEARS LAST MAY. HOW LONG YOU LIVED THIS TERRITORY 25 YEARS I AM CITIZEN</p> <p>NATIVE READ AND WRITE</p> <p>CONSCIOUS SCRUPLES FINDING VERDICT WHERE PENALTY MIGHT</p>		<p>SIR IS IT A DECIDED OPINION YES SIR IT IS STAND ASIDE CHALLENGED SUSTAINED</p> <p><del>ALDEN</del> <b>ELIJAH ELMORE</b> SWORN ON HIS VOIR DIRE</p> <p>WHERE RESIDE IN PANGUITCH HOW LONG LIVED THERE 3 2 YEARS HOW LONG HAVE YOU LIVED IN THIS TERRITORY 25 YEARS ARE YOU CITIZEN OF THE UNITED STATES YES SIR NATIVE READ AND WRITE THE ENGLISH LANGUAGE YES SIR CONSCIOUS SCRUPLES <del>NO</del> <del>SIR</del></p>
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55. *Salt Lake Tribune* gives the name as Elizar Helmer.

**RT**

**RS**

**BT**

**PS**

	<p>BE DEATH I HAVE NOT. ARE YOU CONNECTION EITHER BY MARRIAGE OR OTHERWISE</p> <p>NO SIR</p> <p>I HAVE FORMED OPINION OF CASE. BY CAREY WE CHALLENGE HIM BY COURT YOU WILL STAND ASIDE. CLERK CALLED NAME OF <b>JOHN E PACE</b> BY COURT I THINK I HAVE TELEGRAM FROM HIM CERTIFYING HE IS SICK COURT READ TELEGRAM FROM ST. GEORGE DOCTOR <i>HIGGINS</i>[?]. COURT HE IS EXCUSED FOR</p>		<p>I HAVE NOT [<i>space</i>] ARE YOU ANY CONNECTION EITHER BY MARRIAGE OR OTHERWISE WITH LEE THE DEFENDANT NO SIR HAVE YOU HEARD ANYTHING OF THE CASE YES SIR &lt;HAVE YOUR FORMED OR EXPRESSED OPINION AS TO THE&gt; GUILT OR INNOCENCE OF THE PARTY I HAVE A FIXED OPINION I HAVE [<i>space</i>] I HAVE</p> <p><b>JOHN E PACE</b></p> <p>SICK</p> <p>AND EXCUSED [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THE TERM. PAUL PRICE CALLED BY COURT CLERK. SWORN IN. CAREY WHERE YOU RESIDE PIUTE COUNTY</p> <p>ABOUT 4 YEARS I AM CITIZEN OF THE UNITED STATES READ AND WRITE</p> <p>NATIVE</p> <p>CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH I HAVE NONE</p> <p>I DO NOT KNOW PRISONER OF BAR.</p> <p>HAVE HEARD RUMORS ABOUT IT BUT NOT FORMED ANY OPINION OR PROFESSED BEFORE</p>		<p>PAUL PRICE</p> <p>SWORN ON HIS VOIR DIRE WHERE RESIDE PIUTE COUNTY HOW LONG LIVED THERE ABOUT 4 YEARS CITIZEN OF THE UNITED STATES I AM READ AND WRITE THE ENGLISH LANGUAGE YES SIR NATIVE YES SIR CONSCIOUS SCRUPLES</p> <p>NO SIR [<i>space</i>] ARE YOU ACQUAINTED WITH THE PRISONER AT THE BAR NO SIR HAVE YOU HEARD ANYTHING OF THIS CASE I HAVE RUMORS ABOUT IT ENOUGH I <del>HEARD ENOUGH</del> FROM WHAT YOU HAVE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE NOT FORMED OR EXPRESSED ANY OPINION AS TO GUILT OR INNOCENCE.</p> <p>SPICER TO MR. WADE HOW LONG YOU SAY YOU HAVE RESIDED PIUTE COUNTY 2 YEARS MADE MY RESIDENCE THERE 2 YEARS</p> <p>LIVED NEVADA BEFORE THAT <sup>[13]</sup> I HAVE BEEN AT WHITE PINE BULLION NORTH PART OF THE STATE I HAVE BEEN RESIDING THERE ON AND OFF FOR LAST 8 YEARS I GUESS CORRECTED UNTIL I CAME HERE. WHAT BUSINESS YOU ENGAGED IN PIUTE COUNTY I HAVE GOT STOCK RANCHING LITTLE.</p> <p>I HAVE</p>		<p>HEARD &lt; HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE &gt; GUILT OR INNOCENCE I HAVE NOT [space] DEFENSE SPICER MR. WADE [space] HOW LONG DID YOU SAY YOU HAVE RESIDED IN PIUTE COUNTY 2 YEARS MADE MY RESIDENCE [space] WHERE DID YOU RESIDE BEFORE THAT IN NEVADA WHAT PART OF NEVADA I HAVE BEEN AT WHITE PINE AND BULLION NORTH PART OF STATE I HAVE BEEN RESIDING THERE OFF AND ON FOR THE LAST 8 YEARS I GUESS</p> <p>UNTIL I CAME HERE WHAT BUSINESS ARE YOU ENGAGED IN IN PIUTE COUNTY I HAVE GOT STOCK FARM A LITTLE ONLY[?] RANCHES YES SIR HAVE YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NO FAMILY. WHAT PART OF PIUTE COUNTY</p> <p>CIRCLE VILLE. DID I UNDERSTAND YOU TO SAY YOU HAD NOT FORMED OR EXPRESSED ANY OPINION RELATIVE GUILT OF DEFENDANT I SAID I HAD NOT PROVIDED WHAT I HAVE HEARD WAS NOT FACTS. THEN YOU HAVE HEARD SOMETHING OF IT YES SIR I HAVE HEARD GOOD DEAL ABOUT IT I HAVE HEARD IT IN NEVADA AND HERE. YOU HAVE FORMED OR EXPRESSED</p> <p>YES SIR I HAVE EXPRESSED OPINIONS AND THEN GONE OTHER WAY AND THEN IF HE WAS NOT GUILTY HE OUGHT NOT TO BE PUNISHED.</p>		<p>FAMILY NO SIR WHAT PART OF PIUTE COUNTY DO YOU LIVE CIRCLE VILLE DID I UNDERSTAND YOU TO SAY THAT YOU HAD FORMED OR EXPRESSED NO OPINION AS TO THE GUILT [space] I SAID I HAD NOT PROVIDING THAT WHAT I HAVE HEARD WAS NOT FACTS THEN YOU HAVE HEARD SOMETHING OF IT YES SIR HEARD GOOD DEAL ABOUT IT WHERE HAVE YOU HEARD IT NEVADA AND HERE <sup>[[28]]</sup> YOU HAVE FORMED OR EXPRESSED NO OPINION PROVIDED [space] I HAVE EXPRESSED OPINIONS AND THEN GONE THE OTHER WAY IF HE WAS NOT GUILTY SHOULD NOT BE PUNISHED</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THEN I HAVE HEARD</p> <p>REPORTS.</p> <p>“UPON STATEMENTS YOU TOOK TO BE FACTS DID YOU</p> <p>EXPRESS DECIDED OPINION AT THAT TIME”</p> <p>AT THAT TIME I DID. HAVE YOU A DECIDED OPINION NOW</p> <p>NO SIR I HAVE NOT. HAVE YOU DECIDED OPINION UPON THAT STATEMENT OF FACTS</p> <p>OBJECTION BY CAREY.</p> <p>&lt;SPICER&gt; IF YOU HAVE AT THIS TIME ANY OPINION THAT WOULD REQUIRE TESTIMONY TO REMOVE? NO SIR I HAVE NOT.</p> <p>I HAVE NO OPINION ON THE CASE</p> <p>WHATEVER NOW AT ALL. I UNDERSTAND</p>		<p>[space] I FIRST THOUGHT IT WAS FACTS AND THEN FLOATING REPORTS [space] UPON THAT STATEMENT <del>DID YOU</del> THAT YOU TOOK TO BE FACTS DID YOU FORMED OR EXPRESS DECIDED OPINION AT THAT TIME</p> <p>[space] AT THAT TIME I DID [space] HAVE YOU A DECIDED OPINION NOW</p> <p>NO SIR</p> <p>HAVE YOU A DECIDED OPINION NOW UPON THAT STATEMENT OF FACTS</p> <p>OBJECTED TO OVERRULED [space] IF YOU HAVE AT THIS TIME ANY OPINION THAT IT WOULD REQUIRE TESTIMONY TO REMOVE NO SIR I HAVE NOT</p> <p>[space] I HAVE NO OPINION ON THE CASE</p> <p>WHATEVER NOW I UNDERSTAND</p>
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**RT**

**RS**

**BT**

**PS**

	<p>YOU TO SAY YOU HAVE HEARD THIS MATTER TALKED OVER IN UTAH AND NEVADA YES SIR</p> <p>HOW MANY YEARS AGO WAS IT WHEN YOU FIRST HEARD OF IT</p> <p>I THINK IN ABOUT 71 WAS MY FIRST KNOWLEDGE OF THE FACTS I MIGHT HAVE HEARD REPORTS BEFORE THAT I MAY HAVE HEARD OF IT SEVERAL YEARS AGO BUT NOTHING IN RELATION TO FACTS.</p> <p>BY SPICER IN 71 YOU HEARD IT RELATED THE</p> <p>FACTS AS I UNDERSTAND IT YES SIR. DO YOU THINK YOU KNOW WHAT</p>		<p>YOU TO SAY YOU HAVE HEARD THIS MATTER TALKED OVER BOTH IN UTAH AND NEVADA YES SIR FOR HOW MANY YEARS PASSED HOW MANY YEARS AGO WAS IT WHEN YOU FIRST HEARD OF THIS TO THE BEST OF YOUR RECOLLECTION I THINK IN ABOUT 71 WAS MY FIRST KNOWLEDGE OF FACTS I COULD HAVE HEARD REPORTS BEFORE THAT <del>YOU THINK THEN IN 71</del></p> <p>AS RELATED TO THE FACTS UNTIL 71 YES SIR THEN IN 71 YOU HAD HEARD IT RELATED AS A STATEMENT OF FACTS AS YOU UNDERSTAND IT YES SIR DO YOU <del>KNOW</del> THINK YOU KNOW WHAT THE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>FACTS IN RELATION TO IT ARE. BY CAREY THAT IS DECIDEDLY IMPROPER QUESTION. JUDGE SPICER WHETHER OR NOT HE THINKS HE KNOWS THE FACTS. BY CAREY WE OBJECT DECIDEDLY TO THAT MR. WADE DO YOU THINK YOU KNOW AT THIS TIME THE FACTS NO SIR I DO NOT.</p> <p>HAVE YOU HEARD IT SINCE THAT TIME. I HAVE HEARD PEOPLE SAY SUCH AND SUCH HAD HAPPENED AND MR. LEE WAS THE LEADER INTERRUPTED. BY COURT YOU NEED NOT STATE WHAT YOU HAVE HEARD. SPICER</p>		<p>FACTS IN RELATION TO IT ARE NOW</p> <p>OBJECTED TO OVERRULED [space]</p> <p>NO SIR I DO NOT BUT HEARD IT TALKED OVER THEN IN 71 WHAT YOU CONSIDERED A RELATION OF THE FACTS HAVE YOU EVER HEARD IT SINCE THAT TIME [space] I HAVE HEARD PEOPLE SAY THAT SUCH AND SUCH BE DONE AND THAT MR. LEE WAS THE LEADER [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>STATEMENT HE HAS JUST MADE YOUR HONOR WE HAVE RIGHT TO MAKE USE OF IT. BY COURT YOU HAD NO RIGHT TO DRAW IT OUT. I SHALL ASK WITNESS IF AT THIS TIME HE BELIEVES IT BY COURT I THINK HE HAS NEXT QUESTION OBJECTED BY CAREY. SPICER MR. WADE HAVE YOU ANY PREJUDICE OR BIAS OR SUCH A STATE OF MIND</p> <p>PREVENT YOU FROM DOING JUSTICE</p> <p>TO PARTY ON TRIAL. NO SIR I HAVE NOT WILL PASS MR. WADE. SPICER IF AT TIME</p> <p>IN RELATION CIRCUMSTANCES FACTS THIS</p>		<p>IF AT THIS TIME HE BELIEVES THAT OR ANY <i>PROOF/SUPPOSITION</i>[?] OF WHAT HE HEARD TO BE TRUE OBJECTED TO [<i>space</i>] HAVE YOU ANY PREJUDICE OR BIAS OR DO YOU HAVE SUCH A STATE OF MIND AS WOULD PREVENT YOU FROM RENDERING A FAIR AND IMPARTIAL VERDICT TO THE PARTY IN THIS CASE NO SIR I HAVE NOT [<i>space</i>] <del>PASS</del> IF AT THE TIME OF HEARING RECITAL AND WHAT HE CONSIDERED THEN A RELATION TO THE FACTS IN THIS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CASE HE THEN FORMED AN OPINION DECIDED OPINION IN 71 ANSWERED YOU MIGHT SAY THAT I DID</p> <p>I HAVE REFERENCE OF LATE YEARS. YES SIR I DID HAVE</p> <p>DEFINITE OPINION THAT [space] WE CHALLENGE HIM. CAREY JUROR STATES IF COURT PLEASE HE FORMED HIS OPINION ON WHAT HEARD AT THAT TIME STATES NOW THAT HE HAS NO OPINION. BY BISHOP YOUR HONOR PLEASE UNDERSTAND RULE OF LAW TO BE MAN[?] ONCE FORMED OR EXPRESSED UNQUALIFIED OPINION TOUCHING PARTY ON</p>		<p>CASE HE FORMED A DECIDED OPINION IN 71 YOU MIGHT SAY THAT I DID I SAID AT FIRST THAT I DID NOT WHICH I HAD REFERENCE TO LATE YEARS [space] WHAT I AM ASKING THAT WHETHER YOU FORMED OR EXPRESSED A DECIDED OPINION</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TRIAL HE IS UNFIT JUROR NO RULE OF LAW <sup>[14]</sup> NO RULE OF PRINCIPLES PERMITS THAT PARTY QUALIFY HIMSELF AFTER ONCE HAVING EXPRESSED DECIDED OPINION AS TO WHETHER GUILTY OR INNOCENCE OF DEFENDANT. COURT CAN UNDERSTAND WHY WE CHALLENGE THIS JUROR. HE STATES 71 HE HEARD WHAT HE THEN BELIEVED TO BE</p> <p>FACTS</p> <p>IN CASE IN ANSWER TO BISHOP DID YOU THEN. YOU HAVE ANSWERED YES ON SEVERAL OCCASIONS YOU HAD AT THAT TIME FORMED OR EXPRESSED DECIDED OPINION</p>		<p>IN 71 AT THE TIME YOU HEARD WHAT YOU SUPPOSED TO BE A DETAIL OF FACTS CHALLENGED FOR CASE OBJECTED TO [space] DID YOU NOT SAY THAT</p> <p>YOU HAD FORMED OR EXPRESSED A DECIDED OPINION AT THAT TIME</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WAS THAT SO OR NOT I DO NOT KNOW WHETHER IT WAS SO OR NOT.</p> <p>71 DID YOU FORM DECIDED OPINION UPON WHAT YOU HAD HEARD ON</p> <p>THIS CASE</p> <p>I DO NOT KNOW I HAVE HAD A DECIDED AND POSITIVE OPINION OF THE GUILT OR INNOCENCE IN THE CASE. BY BISHOP DID YOU AT THAT TIME BELIEVE UNDERSTOOD</p> <p>WHAT</p> <p>SHOULD BE DONE YES SIR I DID I DID NOT SAY WHETHER DEFENDANT SHOULD BE</p>		<p>BELIEVE &amp; C I <del>EXPRESSED</del> <sup>[[29]]</sup> YOU HAVE ANSWERED SO THAT YOU DID [space] WAS THAT SO OR NOT I DON'T KNOW WHETHER IT WAS SO OR NOT IT IS THE SAME [space] IN 1871 DID YOU FORM A DECIDED OPINION UPON WHAT YOU HAD HEARD RELATING TO THE CASE TO THE GUILT OR INNOCENCE OF THE DEFENDANT I DO NOT KNOW AS I HAVE HAD DECIDED AND POSITIVE OPINION AS TO THE GUILT OR INNOCENCE OF THE PARTY [space] DID YOU</p> <p>BELIEVE THAT <del>UPON</del> WHAT YOU HEARD WAS TRUE AND STATE WHAT YOU THOUGHT SHOULD BE DONE [space] DID YOU EXPRESS AN OPINION THAT HE SHOULD BE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ACQUITTED DID YOU EVER EXPRESS DECIDED OPINION ONE WAY OR THE OTHER COULD NOT SAY THAT I HAVE DID YOU FORM DECIDED OPINION AT THAT TIME HEARD FACTS AS TO GUILT OR INNOCENCE OF DEFENDANT NO SIR I DID NOT. BY BISHOP YOU CHOP FASTER THAN I CAN.</p> <p><b>HOLING</b> <b>&lt;HESENTER&gt;</b></p> <p>RESIDE</p> <p>SOUTH CEDAR LIVED THERE OFF AND ON FOR 3 YEARS ENGAGED MINING.</p> <p>BY SPICER RELATIVE TO</p>		<p>CONVICTED OR ACQUITTED NO SIR DID YOU EVER EXPRESS DECIDED OPINION ONE WAY OR THE OTHER I COULD NOT SAY THAT I DID [space] DID YOU FORM A DECIDED OPINION AT THE TIME THAT YOU HEARD THE FACTS IN 71 AS TO THE GUILT OR INNOCENCE OF THIS DEFENDANT NO SIR I DID NOT</p> <p>CHALLENGED OVERRULED EXCEPTION [space] LOU HESSINGER [space] WHERE DID YOU SAY YOU RESIDE IN CEDAR DISTRICT WHAT PART OF CEDAR SOUTH CEDAR HOW LONG [space] OFF AND ON FOR 43 YEARS ENGAGED IN MINING I BELIEVE YES SIR [space] IN RELATION TO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>YOUR CITIZENSHIP I UNDERSTAND</p> <p>YOUR FATHER WAS NATURALIZED AM I CORRECT YES SIR.</p> <p>I WAS ABOUT 9 YEARS WHEN HE WAS NATURALIZED. MY FATHER HAD PROPERTY THERE.</p> <p>SPICER HOW LONG HAD YOU BEEN IN COUNTRY AT TIME YOUR FATHER WAS NATURALIZED</p> <p>I CAME</p>		<p>YOUR CITIZENSHIP I UNDERSTAND THAT YOU ≤YOUR≥ FATHER WAS NATURALIZED BUT NOT YOURSELF YES SIR HOW OLD WAS YOU WHEN YOUR FATHER WAS NATURALIZED ABOUT 9 YEARS</p> <p>[space] HOW LONG HAD YOU LIVED IN THE COUNTRY AT THAT TIME I WAS A BOY I DID NOT PAY MUCH ATTENTION TO POLITICS BUT I BELIEVE HE WAS NATURALIZED RIGHT AWAY WANTED TO [space] HOW LONG HAD YOU BEEN IN THE COUNTRY AT THE TIME YOUR FATHER WAS NATURALIZED [space] DID YOU COME TO THE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>COUNTRY WHEN MY FATHER DID I WAS ABOUT 9 YEARS OF AGE I HAVE NEVER TAKEN ANY OATH OF CITIZENSHIP.</p> <p>WAS YOU PRESENT IN COURT WHEN YOUR FATHER WAS NATURALIZED I BELIEVE NOT I DO NOT REMEMBER</p> <p>HE WAS NATURALIZED IN[?] MADISON COUNTY</p> <p>COUNTY SEAT MISSOURI. HOW LONG AGO GOOD WHILE AGO HOW OLD ARE YOU NOW OVER 41 THIS <del>WAS DONE</del></p>		<p>COUNTRY WHEN HE DID YES SIR YOU SAY ABOUT 9 YEARS OLD YES SIR HAVE YOU EVER TAKEN ANY OATH OF CITIZENSHIP ANYTHING OF THAT KIND NO SIR [space] TAKEN ANY STEPS ON YOUR PART NO SIR [space] WAS YOU PRESENT IN COURT WHEN YOUR FATHER WAS NATURALIZED I BELIEVE NOT I CAN'T REMEMBER CAN YOU STATE IN WHAT COUNTY HE WAS NATURALIZED [space] HE WAS NATURALIZED IN MADISON COUNTY AT THE TOWN OF FREDRICKTOWN MISSOURI THE COUNTY SEAT [space] HOW LONG AGO GOOD WHILE AGO I NEVER [space] HOW OLD ARE YOU NOW OVER 41 THIS WAS DONE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MY FATHER WAS NATURALIZED DURING HIS 5 YEARS REMOVED TO AMERICA. DO YOU KNOW ANYTHING IN RELATION THIS NATURALIZATIO N</p> <p>OF YOUR OWN KNOWLEDGE I KNOW HE WENT TO TOWN AND GOT IT BEFORE I CAME OF AGE.</p> <p>I DID NOT SEE IT DONE.</p>		<p>WHEN YOU WERE 9 YEARS OLD NO I CAME HERE WHEN I WAS 9 [space] <sup>[[30]]</sup> YOU CAN'T STATE HOW MANY YEARS AGO IT WAS DONE [space] I BELIEVE MY FATHER GOT NATURALIZED IN THE FIRST FIVE YEARS THAT MOVED TO AMERICA DO YOU KNOW ANYTHING ABOUT THIS OR CAN'T YOU STATE ANYTHING ABOUT IT OF YOUR OWN KNOWLEDGE I KNOW HE WENT TO TOWN AND THAT HE DID BEFORE I CAME OF AGE [space] CAN'T YOU STATE ANYTHING OF YOUR OWN KNOWLEDGE IN RELATION TO THIS NATURALIZATIO N DID YOU SEE IT DONE NO SIR I DID NOT SEE IT DONE CAN YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CAN YOU STATE ANY FACT YOU KNOW OF YOUR OWN KNOWLEDGE NOT MORE THAN WHAT I HAVE SEEN AT THE TIME.</p> <p>SAW POLK'S ELECTION COME DID NOT PAY MUCH ATTENTION TO IT I KNOW MY FATHER VOTED. I DID NOT SEE THE PAPERS. DO YOU KNOW ANYTHING FURTHER THAN THAT YOUR FATHER VOTED I DO NOT KNOW HE NEVER HAD ANY OFFICE I KNOW OF. BY SPICER WE DO</p>		<p>STATE THAT YOU KNEW ANYTHING FURTHER ABOUT IT THAN WHAT YOU HAVE HEARD ANYTHING MORE THAN HEARSAY [space] CAN'T YOU STATE ANY FACT THAT YOU HAVE OF YOUR OWN KNOWLEDGE [space] NO MORE THAN WHAT I HAVE SEEN AT THE TIME I HAVE SEEN HIM HAVE TO GO TO TOWN WHEN ELECTION CAME [space]</p> <p>YOU SIMPLY KNEW YOUR FATHER VOTED I NEVER SAW HIS PAPERS DO YOU KNOW ANYTHING FURTHER THAN THAT YOUR FATHER VOTED</p> <p>HE NEVER HELD ANY OFFICE THAT I KNOW OF [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NOT THINK IT IS SUFFICIENT EVIDENCE HE IS NATURALIZED GREAT MANY VOTE WITHOUT THEIR PAPERS BE JUROR AND HAVE BEEN REGISTERED. [space] SPICER GIVE US YOUR NAME IN FULL. <del>FREDERICK</del> &lt;FREDERICK[?]&gt; LEWIS HESSENGER OBJECTED TO BY SPICER</p> <p>ON ACCOUNT OF NAME NOT BEING ON LIST BY COURT ON FIRST GROUND I THINK IS NOT GOOD ON THE SECOND I THINK IS GOOD. YOU WILL STAND ASIDE. [space]<sup>[15]</sup> BY CAREY MY NAME IS JOSEPHUS WADE.</p> <p>JAMES C</p>		<p><del>CHALLENGED FOR CASE</del></p> <p>GIVE US YOUR NAME</p> <p>FREDERICK</p> <p>LEWIS HESSINGER &lt;TO THE CLERK&gt; HOW IS IT ON YOUR LIST [space] CHALLENGED FOR CASE BECAUSE HE IS NOT A CITIZEN AND THAT HIS NAME IS NOT ON THE LIST. &lt;COURT&gt; FIRST GROUND NOT GOOD SECOND I THINK IS GOOD CHALLENGE SUSTAINED [space] WADE WHAT IS YOUR NAME JOSEPHUS WADE WHAT IS YOURS MISTER [space] JAMES C</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HIESTER. DAVID ROGERS. ISAAC DUFFIN.</p> <p>CHRISTOPHER J ARTHUR. MR. JOHN P[?] CHICHESTER. JAMES C ROBINSON. MR. HENRY HOLING. MR. HALLER JACOB FREDERICK HALLER BY SUTHERLAND BY WHAT CHRISTIAN NAME ARE YOU COMMONLY CALLED I AM SOMETIMES</p> <p>CALLED ONE AND ANOTHER I AM ACTUALLY CALLED FRED. MR. KNIGHT JOSEPH KNIGHT. MR. PAUL PRICE. BY SPICER ONLY 11 MEN IN JURY BOX BY SUTHERLAND WE CHALLENGE MR. HALLER. <b>GEO F</b> <b>JARVIS</b> SWORN BY CLERK. WHERE YOU</p>		<p>HEISTER MR. ROGERS DAVID ROGERS MR. DUFFIN ISAAC DUFFIN MR. ARTHUR CHRISTOPHER J ARTHUR MR. CHIDESTER JOHN P CHIDESTER ROBINSON JAMES C MR. <i>HOLINGS[?] ~</i> <i>[space]</i> HALLER JACOB FREDERICK HALLER <del>MR.</del> <del>HUNTER</del> BY WHAT CHRISTIAN NAME ARE YOU COMMONLY CALLED I SOMETIMES BY ONE SOMETIMES ANOTHER CALLED AS <i>FKRK[?]</i> NOT FREDERICK OR FRED MR. KNIGHT <i>[space]</i> JOSEPH MR. PRICE PAUL PRICE DEFENSE</p> <p>CHALLENGED MR. HALLER <b>GEORGE F</b> <b>JARVIS</b></p> <p>WHERE DO YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>LIVE ST. GEORGE 14 YEARS</p> <p>TERRITORY 15 YEARS I AM CITIZEN NATURALIZED</p> <p>ST. GEORGE BY JUDGE HAWLEY PRESIDING HIMSELF. READ AND WRITE</p> <p>I DO. ANY CONSCIOUS SCRUPLES WHERE PUNISHMENT MIGHT BE DEATH NOT ANY. ONLY KNOW PRISONER AT BAR BY SIGHT AM NO CONNECTION HAVE NOT FORMED OR EXPRESSED ANY OPINION</p> <p>HAVE HEARD OF THE CASE HAVE NOT TALKED ABOUT IT</p>		<p>LIVE ST. GEORGE HOW LONG 14 YEARS HOW LONG IN THE TERRITORY 15 YEARS CITIZEN I AM NATURALIZED WHERE NATURALIZED ST. GEORGE THE JUDGE HAWLEY PRESIDING [space] <sup>[[31]]</sup>56 DO YOU READ AND WRITE THE ENGLISH LANGUAGE I DO CONSCIOUS SCRUPLES [space]</p> <p>NONE SIR DO YOU KNOW THE PRISONER AT THE BAR ONLY BY SIGHT ANY CONNECTION NO SIR HAVE YOU FORMED OR EXPRESSED OPINION AS TO HIS GUILT OR INNOCENCE NO SIR EVER HEARD OF THE CASE I HAVE TALKED ABOUT IT NO SIR NEVER TALKED WITH</p>
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56. The verso of page 31 contains only a drawn profile labeled: W SPICER.

**RT**

**RS**

**BT**

**PS**

	<p>HAVE ANY OPINIONS ≤NO≥ SIR BY SPICER HENRY <b>HOLLING</b> HE SPELLED HIS NAME. LIVED CEDAR ON AND ON LAST 3 YEARS</p> <p>LIVED</p> <p>CALIFORNIA BEFORE THAT. I AM MINER FLOW MINING. CAME FROM CALIFORNIA TO UTAH. BY SPICER HOW IS THAT NAME ON THE LIST CLERK ANSWERED <b>HOLING</b></p> <p>HAVE YOU EVER HEARD THIS MATTER TALKED OVER. YES SIR SOME.</p> <p>I THOUGHT WAS</p>		<p>ANYBODY NOT THAT I KNOW OF [space] HAVE NO OPINION ?<sup>57</sup> NONE SIR [space] PASSED HOLLING [space] <b>HOLLING</b> WHERE DID YOU SAY YOU LIVE IN CEDAR ON AND ON FOR THE LAST 3 YEARS WHERE DID YOU LIVE BEFORE THAT CALIFORNIA YES SIR MINER YES SIR</p> <p>CAME FROM CALIFORNIA TO UTAH YES SIR HOW DID YOU SAY YOU SPELLED YOUR NAME H <b>HOLLING</b> ≤TO CLERK≥ HOW IS THAT NAME ON THE LIST [space] ONE S [space] HAVE YOU EVER HEARD THIS MATTER TALKED OVER YES I HAVE HEARD IT TALKED [space] WHEN DID YOU FIRST HEAR OF IT WHEN I CAME</p>
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57. Question mark appears to be in Rogerson's hand.

**RT**

**RS**

**BT**

**PS**

	<p>FIRST IN UTAH</p> <p>BUT I DO NOT RECOLLECT. —[?] YOU BEEN IN UTAH</p> <p>LAST 3 YEARS. HAVE YOU IN MIND ANY PARTICULAR TIME OR PLACE OR</p> <p>PERSONS YOU HAVE TALKED IT OVER I DO NOT REMEMBER. HAVE YOU DISTINCT MEMORIES OF ANY TIME OR CIRCUMSTANCES WHEN YOU TALKED IT OVER.</p> <p>I HAVE NOT FORMED OR EXPRESSED ANY</p> <p>OPINION.</p> <p>IF YOU HAVE HEARD IT TALKED OVER</p>		<p>TO UTAH I MIGHT HAVE HEARD OF IT IN CALIFORNIA BUT I DO NOT RECOLLECT YOU HAVE ONLY BEEN IN UTAH 3 YEARS IF YOU HEARD IT IN UTAH IT IS IN THE LAST 3 YEARS DO YOU HAVE IN MIND ANY PARTICULAR TIME OR PLACE OR WITH ANY PARTICULAR PERSONS YOU HAVE HEARD IT TALKED OVER NO SIR</p> <p>HAVE YOU <del>ANY</del> DISTINCT MEMORIES OF</p> <p>CIRCUMSTANCES NO SIR I HAVE NOT DO I UNDERSTAND YOU TO SAY THAT YOU HAVE FORMED OR EXPRESSED ANY DECIDED OPINION <math>\Leftarrow</math>AS TO THE GUILT OR INNOCENCE<math>\rightarrow</math> I HAVE NOT [<i>space</i>] HAVE YOU EVER HEARD IT TALKED OVER</p>
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**RT**

**RS**

**BT**

**PS**

	<p>FREQUENTLY THAT YOU KNOW OF. OBJECTED BY CAREY. <del>IT WAS AT THE</del> HAVE HEARD IT TALKED HERE IN BEAVER SINCE I HAVE BEEN HERE IN COURT. HAVE HEARD IT TALKED EVER</p> <p>BEFORE HAVE HEARD SEVERAL PERSONS SPEAKING OF IT. SPICER FROM THEIR SPEAKING OF IT AND WHAT YOU HEARD AT TIME DID YOU EXPRESS DECIDED OPINION</p> <p>I DID NOT <del>ONLY[?]</del> DID NOT AT THE TIME. HAVE YOU ANY BIAS PREJUDICE TO</p> <p>PREVENT YOUR GIVING FAIR IMPARTIAL VERDICT</p>		<p>FREQUENTLY THAT YOU REMEMBER OF [space] OBJECTED TO OVERRULED [space] <del>IT WAS</del> I HAVE HEARD IT TALKED IN BEAVER SINCE I WAS HERE [space] EVER BEFORE YES SIR I THINK I HAVE [space] <del>EVER</del> MORE THAN ONCE BEFORE I HAVE HEARD SEVERAL PERSONS SPEAK ABOUT IT [space] FROM THEIR SPEAKING OF IT AND WHAT YOU HEARD AT THE TIME DID YOU FORM OR EXPRESS A DECIDED OPINION AS TO THE GUILT OR INNOCENCE OF DEFENDANT <del>NO</del> <del>SIR</del> I HAVE NOT <del>ONLY[?]</del> DID NOT AT THE TIME NO SIR HAVE YOU ANY BIAS OR PREJUDICE OR STATE OF MIND SUCH AS WOULD PREVENT YOU FROM GIVING FAIR AND IMPARTIAL VERDICT FROM</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PREVENT ME GIVING VERDICT AGAINST DEFENDANT. BY HOGE YOU SAY YOU HAVE LIVED THESE LAST THREE YEARS ←OFF AND⇒ ON IN THIS TERRITORY CEDAR DISTRICT WHEN YOU WERE NOT LIVING IN CEDAR DISTRICT I WAS IN ARIZONA I WENT 5TH</p> <p>NOVEMBER “LAST” IN YEAR LAST NOVEMBER BEFORE LAST. REMAINED IN ARIZONA ABOUT 9 MONTHS.</p> <p>CAME BACK TO UTAH</p> <p>FROM FORT DEFIANCE TO UTAH.</p> <p>I WAS THERE</p>		<p>THE TESTIMONY PRODUCED NO SIR I HAVE NOT [space] MR. HOGE [space] YOU SAY THAT YOU HAVE LIVED</p> <p>OFF AND ON IN THIS TERRITORY IN CEDAR DISTRICT WHEN YOU WERE NOT LIVING IN CEDAR DISTRICT WHERE WERE YOU LIVING IN ARIZONA [space] WHEN LAST I WENT 5TH OF LAST NOVEMBER</p> <p>LAST NOVEMBER A YEAR HOW LONG REMAINED THERE ABOUT 9 MONTHS WHERE DID YOU GO TO WHEN YOU LEFT ARIZONA I CAME BACK TO UTAH [space] DIRECTLY I CAME FROM FORT DEFIANCE DIRECTLY WHEN WERE YOU AT FORT DEFIANCE I WAS THERE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>LAST 4TH JULY A YEAR AGO.</p> <p>CAME          &lt;ACROSS&gt; MR. LEE'S FERRY BACK TO UTAH. I WENT TO CEDAR DISTRICT.</p> <p>I THINK I ARRIVED THERE IN AUGUST. WHAT TIME IN AUGUST ABOUT MIDDLE OF AUGUST. I HAVE NO FAMILY. IF YOUR HONOR PLEASE WE PROPOSE TO CHALLENGE THIS JUROR BECAUSE HE DID NOT RESIDE IN UTAH 6 SIX MONTHS PREVIOUS TO THIS TRIAL. BY SPICER HAVE YOU EVER PAID TAXES</p> <p>I HAVE NOT SINCE I HAVE BEEN <sup>[16]</sup> HERE.</p>		<p>LAST 4TH JULY A YEAR AGO THEN WHAT PART OF UTAH DID YOU COME BACK TO [space] I CAME ACROSS MR. LEE'S FERRY <sup>[[32]]</sup> WHAT PART OF THE TERRITORY DID YOU STOP IN CEDAR DISTRICT WHEN DID YOU ARRIVE THERE I THINK IT WAS IN AUGUST WHAT TIME IN AUGUST I THINK IT WAS ABOUT THE MIDDLE OF AUGUST HAVE YOU GOT ANY FAMILY NO SIR <del>CHALLENGED FOR CASE</del> [space] ARE YOU TAX PAYER IN THIS TERRITORY I HAVE GOT SOME MINING PROPERTY</p> <p>HAVE YOU EVER PAID TAXES HAVE YOU TAXABLE PROPERTY AND HAVE YOU PAID TAXES I HAVE NOT SINCE I HAVE BEEN HERE [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WE CHALLENGE HIM BECAUSE HIS NAME IS NOT PROPERLY SPELLED ON THE LIST AND HAS NOT PAID TAXES. MY PROPERTY IS JUST CLAIMS I HAVE NO PATENT. BY CAREY WHEN YOU WENT FROM UTAH TO ARIZONA DID YOU GO WITH INTENTION OF LEAVING UTAH.</p> <p>YES SIR.</p> <p>RETURNED LAST AUGUST BEEN LIVING HERE</p>		<p>WHAT KIND OF MINING PROPERTY IS THAT PROSPECTS AND CLAIMS LOCATIONS YES SIR <del>NO</del> HAVE YOU ANY PREJUDICE I HAVE NOT [space] CHALLENGED [space] <del>CHALLENGED</del> <del>FOR THE</del> [space]</p> <p>WHEN YOU WENT FROM UTAH TO ARIZONA DID YOU GO WITH THE INTENTION OF LEAVING UTAH YES SIR ABANDONING YOUR HOME HERE AND GOING THERE TO LIVE YES SIR WHEN DID YOU RETURN HERE LAST AUGUST [space] BEEN LIVING HERE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>EVERY SINCE.</p> <p>BACK DEFENSE HE DID NOT HERE SIX MONTHS PRIOR TO LISTING. CHALLENGE IS SUSTAINED ON THAT GROUND YOU ARE EXCUSED FOR THE TERM.</p> <p>BY CAREY I WISH ASK LAST JUROR ANOTHER QUESTION. WHAT TIME DID YOU COME INTO TERRITORY FROM ARIZONA I MUST HAVE BEEN AT FERRY ABOUT 4TH OF AUGUST THAT WILL DO. [space] CLERK READ NAME WILLIAM</p>		<p>EVERY SINCE YES SIR [space] CHALLENGED BY DEFENSE ON THE GROUND THAT THE JUROR'S NAME IS NOT SPELLED RIGHT AND THAT HE IS NOT <del>BEEN</del> A TAXPAYER. CHALLENGE SUSTAINED ON THE GROUND THAT HE HAS NOT BEEN 6 MONTHS IN THE DISTRICT BEFORE LISTING [space]</p> <p>CAREY [space]</p> <p>WHAT TIME DID YOU COME INTO THE TERRITORY FROM ARIZONA</p> <p>ABOUT THE 4TH OF AUGUST. —</p> <p><b>WM</b></p>
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**RT**

**RS**

**BT**

**PS**

	<p>THOMPSON SENIOR. SPICER MR. HALLER HOW LONG YOU SAY YOU RESIDED IN UTAH ABOUT 6 YEARS. HOW LONG YOU BEEN</p> <p>TERRITORY WHEN I FIRST MET YOU I HAD BEEN OVER A YEAR. YOU SAY YOUR NAME IS JACOB FREDERICK HALLER THAT IS THE WAY I SIGN MY NAME. DID NOT YOU ANSWER ONCE BEFORE</p> <p>SOMETIMES THEY CALL YOU FRED SOMETIMES <i>FRANK</i>[?] THEY CALL ME IN THIS COUNTRY FRED AT ALL TIMES. OTHER PLACES THEY CALL ME JACOB I HAVE A PARTNER CALLED JACOB.</p>		<p><b>THOMPSON</b> <b>SEN.</b> [<i>space</i>] HALLER HOW LONG DID YOU SAY YOU HAD RESIDED IN UTAH ABOUT 6 YEARS HOW LONG IN ◀SPICER▶ THE TERRITORY WHEN I FIRST MET YOU [<i>space</i>] OVER A YEAR [<i>space</i>] YOU SAY YOUR NAME IS JACOB FREDERICK THAT IS THE WAY I SIGN MY NAME [<i>space</i>] YOU ANSWERED ONCE BEFORE THAT SOMETIMES THEY CALL YOU FRED AND SOMETIMES JACOB [<i>space</i>] THEY DO THEN THEY CALL ME FRED AT ALL TIMES THAT IS HOW I AM KNOWN</p> <p>[<i>space</i>] THEY SOMETIMES CALL ONE NAME AND SOMETIMES ANOTHER [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE/IF[?] FORMERLY YEAR OR TWO</p> <p>IF YOU DID NOT GET TO GO BY NAME OF JACOB NO SIR NOT IN UTAH REFRESH YOUR MEMORY AT TIME WE FIRST BECAME ACQUAINTED YOUR FULL NAME WAS NOT JAKE HALLER NO SIR. I SIGN MY NAME JACOB F <b>HALLER</b> WE CHALLENGE THE JUROR <i>KNOW</i>[?] THAT HIS NAME HAS NOT BEEN PROPERLY LISTED AND DRAWN SIGNS HIS NAME JACOB F HALLER AND IT IS NOT SO ON THE LIST. &lt;BY COURT&gt; CHALLENGE IS SUSTAINED YOU ARE EXCUSED FOR THE TERM.</p> <p>MR. WILLIAM THOMPSON STOOD UP AND</p>		<p>ASK YOU IF FORMERLY A YEAR OR TWO PRIOR TO THE PRESENT TIME IF YOU DID NOT GO ALL THE TIME BY THE NAME OF JACOB NO SIR NOT IN UTAH [space] TO REFRESH YOUR MEMORY AT THE TIME I WAS JUST SPEAKING OF</p> <p>IF YOUR NAME WAS NOT JAKE HALLER I SIGN I SIGN MY JACOB F HALLER [space] CHALLENGE THE JUROR ON THE COUNT THAT HE HAS NOT BEEN PROPERLY <sup>[[33]]</sup> LISTED AND DRAWN.</p> <p>CHALLENGE SUSTAINED [space] <del>WILLIAM THOMAS SWORN ON HIS VOIR DIRE</del> [space] WILLIAM MR. THOMPSON SWORN ON HIS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WAS SWORN BY CLERK. ≤CAREY≥ LIVE BEAVER</p> <p>LIVED HERE LAST 16 OR 17 YEARS CORRECTED TO 16. CITIZEN UNITED STATES</p> <p>NATURALIZED HERE IN OPEN COURT IN BEAVER READ AND WRITE</p> <p>ANY SCRUPLES AGAINST FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH NO SIR I DO NOT THINK I HAVE I AM ACQUAINTED WITH PRISONER</p> <p>I HAVE KNOWN HIM EVERY SINCE HE WAS ARRESTED BROUGHT TO BEAVER I HAVE</p>		<p>VOIR DIRE [<i>space</i>] WHERE DO YOU LIVE IN BEAVER HOW LONG LIVED HERE 16 OR 17 YEARS ARE YOU CITIZEN OF THE UNITED STATES YES SIR NATURALIZED WHERE HERE IN BEAVER IN OPEN COURT YES SIR READ AND WRITE THE ENGLISH LANGUAGE YES SIR CONSCIOUS SCRUPLES</p> <p>NO SIR [<i>space</i>]</p> <p>ARE YOU ACQUAINTED WITH THE PRISONER AT THE BAR YES SIR HOW LONG HAVE YOU KNOWN HIM I HAVE KNOWN HIM EVERY SINCE HE WAS ARRESTED AND BROUGHT TO BEAVER YES SIR HAVE YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HEARD CONSIDERABLE ABOUT CASE</p> <p>I DO NOT KNOW THAT I HAVE OR WHAT EVIDENCE WOULD CONTROL ME I CERTAINLY HAVE FORMED</p> <p>OPINION AS TO HIS GUILT OR INNOCENCE</p> <p>IT IS NOT FIXED. SPICER I THINK YOUR HONOR WITNESS IS EXCUSABLE WHILE AT THIS TIME CHALLENGED FOR CASE AND ASK THE COURT MOVE</p> <p>HAVE COURT APPOINT TRIERS TO TRY FOR</p>		<p>HEARD ANYTHING ABOUT THIS CASE [<i>space</i>] FROM WHAT YOU HAVE HEARD <del>←</del>HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE <del>→</del> GUILT OR INNOCENCE OF THE DEFENDANT I DO NOT KNOW THAT I HAVE OR WHAT EVIDENCE MIGHT CONTROL ME WHETHER YOU HAVE FORMED OR EXPRESSED OPINION AS TO HIS GUILT OR INNOCENCE I CERTAINLY HAVE [<i>space</i>] IS THAT A FIXED OPINION NO SIR IT IS NOT FIXED EVIDENCE MAY CHANGE IT.</p> <p>CHALLENGED FOR CASE <del>←FAVOR OR PREJUDICE→</del> HAVE ACTUAL BIAS AND ASK THE COURT TO APPOINT TRIERS TO TRY HIM.</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CASE. BY CAREY WE HAVE NOT CHALLENGED HIM. BY HOGE YOUR HONOR PLEASE CAN GO AND EXAMINE THIS IF WE GO AND EXAMINE THIS <del>WITNESS</del>[?] JUROR WE LOOSE EVERY POINT WE HAVE ARGUED HOW TO RULE ON CHALLENGE FOR FAVOR. WE WOULD PREFER TO HAVE IT TRIED OTHER WAY. WE ARE ENTITLED TO TRIALS FALL BACK UPON WHAT IS COMMON LAW. WE NOW FALL BACK ON OUR COMMON LAW RIGHT. SPICER I CHALLENGE JUROR FOR ACTUAL BIAS TRY QUESTION AS TO HIS ACTUAL BIAS OR PREJUDICE [space]<sup>[17]</sup> BY COURT IT IS MY IMPRESSION YOU HAVE RIGHT OF TRIAL AS TO THE TRIALS. HOGE</p>		<p>DEFENSE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WE INSIST ON TRIERS ON BOTH COUNTS. BY COURT IF YOU DO NOT SHOW ANY AUTHORITY SO FAR AS OPINION OF THE CASE I <del>SHALL</del> I SHALL NOT DECIDE ON POINT YOU MUST SHOW ME SOME AUTHORITIES TO THAT EFFECT OR I SHALL RULE AGAINST. HOGE WE ASK EXCEPTION BE NOTED TO YOUR RULING. BY SPICER WE WISH TO ASK JUROR SOME QUESTIONS COURT EXPLAINED YOU HAVE CHALLENGED JUROR YOU MUST FIRST WITHDRAW YOUR CHALLENGE THEN PROCEED ON THAT GROUND. BY SPICER IF COURT WILL PERMIT WE WILL WITHDRAW OUR CHALLENGE</p>		<p>INSISTED APPOINT TRIERS FOR BOTH QUESTIONS. [space] COURT REFUSED TO GIVE THE DEFENDANT TRIERS ON THE QUESTION OF <del>HAVING FORMED AN OPINION</del>.</p> <p>EXCEPTION [space]</p> <p>ASKED THAT <del>TRIEERS</del> [space] WE WITHDRAW THE CHALLENGE FOR THE TIME BEING [space]</p> <p>SPICER</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AND PROCEED TO EXAMINE JUROR. TO MR. THOMPSON AM OLD SETTLER</p> <p>MY BUSINESS IS SELLING GRAIN AND FLOUR AND BUYING. HAVE YOU HAD OPPORTUNITY OF SEEING MANY OF PEOPLE FROM MANY PARTS OF THE COUNTRY</p> <p>YES SIR I HAVE SEEN MANY OF THEM I HAVE TALKED WITH THEM I DO NOT KNOW WHAT THEY HAVE SAID DO NOT KNOW ANYTHING ABOUT IT. HAVE HEARD GREAT</p> <p>MANY REPORTS. UPON THAT TALK AND</p>		<p>YOU ARE AN OLD SETTLER HERE YES SIR PRETTY WELL ACQUAINTED THROUGHOUT THE COUNTRY YES SIR WHAT IS YOUR BUSINESS HERE SELLING GRAIN AND FLOUR AND OF BUYING IT YES SIR HAVE YOU HAD THE OPPORTUNITY OF SEEING MANY PEOPLE FROM PARTS OF THE COUNTRY FAR AND NEAR YES SIR</p> <p>HAVE YOU TALKED WITH THEM IN RELATION TO THIS MATTER YES I HAVE INDEED ON WHAT I HAVE —[?]<sup>58</sup> HEARD GREAT DEAL SAID [<i>space</i>] BEFORE/BUT[?] I GOOD DEAL OF REPORTS UPON THAT TALK</p>
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58. May be crossed out.



**RT**

**RS**

**BT**

**PS**

	<p>CONVERSATION WHAT YOU HAVE HEARD</p> <p>HAVE YOU FORMED OR EXPRESSED DECIDED OPINION</p> <p>AGAINST MR. LEE NO SIR I HAVE NOT THERE HAS BEEN TOO MUCH RUMOR FOR THAT. UPON THIS RUMOR FACTS —/ <i>EXPLANATION</i>[?] ETC. DID YOU FORM OPINION AS TO TRUTH OF IT NO SIR I DID NOT KNOW WHETHER ANY OF IT WAS TRUE OR NOT</p> <p>DID NOT PAY BUT VERY LITTLE ATTENTION TO IT DID NOT FORM ANY OPINION UPON IT. <del>BY HOGE</del> &lt;SPICER&gt; WE</p>		<p>CONVERSATION THAT YOU HAVE HEARD RELATED IN RELATION TO THIS HAVE YOU FORMED OR EXPRESSED A DECIDED OPINION AS TO THE GUILT OR INNOCENCE OF MR. LEE NO SIR I HAVE NOT THERE HAS BEEN TOO MUCH RUMOR FOR THAT [<i>space</i>] UPON THIS RUMOR THAT YOU HAVE HEARD DID YOU FORM ANY OPINION AS TO THE TRUTH OF IT NO SIR I DID NOT KNOW WHAT THE TRUTH THERE WAS SO MUCH <sup>[[34]]</sup> OF YOU MEAN TO SAY YOU DID NOT PAY ANY ATTENTION TO IT [<i>space</i>] VERY LITTLE [<i>space</i>] FORMED ANY OPINION ABOUT IT NO [<i>space</i>] <del>MR. HOGE</del> [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>RENEW OUR ORIGINAL MOTION FOR TRIERS TO BE APPOINTED TO TRY UPON QUESTION OF BIAS. SPICER DO YOU REMEMBER ANY PERSON IN PARTICULAR YOU HAVE TALKED TO ABOUT IT</p> <p>I DID NOT PAY ANY REGARD TO MATTER I DO NOT REMEMBER MR. LEE AND I HAVE TALKED BUT I DO NOT REMEMBER</p> <p>ANYTHING PARTICULAR HE SAID TO ME. DO YOU REMEMBER ANYTHING YOU HAVE SAID</p> <p>NO SIR.</p>		<p>RENEW THAT ORIGINAL MOTION TO HAVE TRIERS APPOINTED TO TRY THE QUESTION OF BIAS [space] DO YOU REMEMBER ANY PERSON IN PARTICULAR THAT HAVE TALKED WITH YOU ABOUT THIS MATTER OR THAT YOU HAVE TALKED WITH NO SIR I DO NOT REMEMBER PERSONALLY I DID NOT PAY ANY REGARD [space] <del>I HAVE</del></p> <p>MR. LEE HAS TALKED TO ME AND I HAVE TALKED TO HIM BUT NOT ANYTHING TO INFLUENCE MY MIND EITHER WAY DO YOU REMEMBER ANYTHING THAT YOU HAVE SAID TO ANY PARTICULAR PERSON TOUCHING THIS MATTER AS TO HOW IT WAS [space] <del>I HAVE MADE</del> NO SIR I</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PROCEEDED TO STATE HOW HE HAD EXPRESSED HIS MIND INTERRUPTED BY CAREY INSTRUCTED BY COURT.</p> <p>I WAS GOING TO TELL YOU WHAT IT WAS BEFORE INSTRUCTED BY COURT. WHAT I HAVE EXPRESSED I CAN EXPRESS AGAIN</p> <p>&lt;HOGE&gt; HAVE YOU EXPRESSED AN OPINION NEVER FORMED AN OPINION TO MY KNOWLEDGE.</p> <p>SPICER ASKED ANOTHER QUESTION</p> <p>YOU SPOKE OF HAVING EXPRESSED YOUR MIND</p>		<p>HAVE ALWAYS EXPRESSED IT THIS WAY ~ NOTHING ABOUT THAT [space] YOU SEEM TO EXPRESS YOURSELF JUST NOW THAT YOU HAD A MIND ON IT I WAS JUST GOING TO TELL YOU THAT [space]</p> <p>WHAT I HAVE EXPRESSED I CAN EXPRESS AGAIN BY THE LEAVE OF THE COURT [space] HAVE YOU EXPRESSED AN OPINION NO SIR HAVE YOU FORMED AN OPINION NEVER TO MY KNOWLEDGE YOU SUPPOSED TO SAY ALL YOUR MIND ON MATTER I SUPPOSE THIS LAST QUESTION ANSWERED THAT [space] YOU SPOKE OF HAVING EXPRESSED YOUR MIND</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WHAT DID YOU MEAN BY</p> <p>HAVING MIND ON THE MATTER.</p> <p>THOMPSON IF YOU WILL ALLOW ME TO TELL YOU</p> <p>I HAD BEEN TOLD THERE HAD BEEN MOUNTAIN MEADOW MASSACRE COMMITTED DOWN THERE I HAVE NEVER SEEN THE PLACE AND I DO NOT KNOW WHETHER HE IS GUILTY OR NOT I DO NOT KNOW</p> <p>WHO DONE IT HAVE NOT PASSED ANY OPINION ON ANYTHING ABOUT IT.</p> <p>I BELIEVE THERE IS</p>		<p>WHAT DID YOU MEAN BY EXPRESSING OR HAVING A MIND ON THE MATTER CAN YOU EXPLAIN YOU WHAT MEAN BY A MIND ON IT [space] IF YOU WOULD ALLOW ME TO TELL YOU I WILL YOU[?] WHAT YOU [space] I HAVE BEEN TOLD THAT THERE AT MOUNTAIN MEADOW MURDERING GOOD MANY PEOPLE</p> <p>I DID NOT KNOW WHETHER IT WAS TRUE I HEARD THE RUMOR AND DID NOT KNOW ANYTHING ABOUT IT I DID NOT KNOW WHO DONE IT OR ANYTHING ABOUT IT THAT IS WHAT YOU MEAN BY SAYING YOU HAVE EXPRESSED YOUR MIND I BELIEVE THERE IS —[?]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BECAUSE OF REPORTS I HAVE HEARD FROM MEN WHO HAVE SEEN I HAVE SEEN THE PLACE. I HAD TO BELIEVE THEM REPORTS</p> <p>I COULD NOT CONTRADICT THEM</p> <p>I DID NOT FORM OPINION ON THAT BELIEF.</p> <p>I BELIEVED THEM BECAUSE I COULD NOT DISPROVE THEM. BY CAREY I OBJECT TO THESE QUESTIONS WHETHER THERE WAS EVER SUCH &lt;PLACE&gt;</p> <p>AS MOUNTAIN MEADOW MASSACRE. REMARKS BY COURT INSTRUCTING</p>		<p><i>BEFORE</i>[?] I DID <i>NOT</i>[?] BECAUSE OF REPORTS THAT I HAVE HEARD FROM MEN THAT HAVE SAW THE PLACE [<i>space</i>] DID YOU BELIEVE THESE REPORTS OF COURSE I HAD TO BELIEVE THEM I COULD NOT CONTRADICT THEM UPON THAT BELIEF DID YOU FORM AN OPINION NO SIR [<i>space</i>] YOU SAY YOU BELIEVE THESE REPORTS [<i>space</i>] I BELIEVE THEM BECAUSE I COULD NOT DISPROVE THEM <del>OBJECTED TO</del> OBJECTED TO ~ [<i>space</i>]</p> <p>WHETHER IN THOSE REPORTS YOU HAVE HEARD HERETOFORE &lt;ON MOUNTAIN MEADOWS MASSACRE&gt;</p>
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**RT**

**RS**

**BT**

**PS**

	<p>SPICER AS TO QUESTION. [space] WHETHER DEFENDANT MR. LEE WAS CONNECTED WITH THESE REPORTS. IN THESE REPORTS YOU HAVE HEARD RELATIVE THIS AFFAIR MOUNTAIN MEADOWS WAS MR. LEE AS PARTICIPANT <i>EXCEED</i> <i>ANYTHING[?]</i> <sup>[18]</sup> FROM I HAVE HEARD IN SEVERAL INSTANCES HE WAS THE «FOREMAN» MAN IN THE BUSINESS. SPICER WE THINK ON THIS POINT EXPRESSES VERY DECIDED OPINION. [space] BY SPICER WE CHALLENGE HIM FOR CASE. BY CAREY FROM WHAT YOU HAVE HEARD HAVE YOU EXPRESSED OR FORMED OPINION AS TO</p>		<p>WHETHER MR. LEE WAS CONNECTED WITH THEM AS [space]</p> <p>I HEARD IN SEVERAL INSTANCES THAT HE WAS VERY FOREMAN IN THE BUSINESS [space]</p> <p>[[35]] CHALLENGE HIM FOR EXPRESSING [space]</p> <p>HAVE YOU FORMED OR EXPRESSED OPINION AS TO THE GUILT OR</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MR. LEE I HAVE NOT SIR. BY COURT WHAT DO YOU MEAN BY SAYING YOU HAVE HEARD</p> <p>MR. LEE WAS FOREMAN</p> <p>I HEARD THESE REPORTS AND I BELIEVED THEM SO FAR AS I COULD NOT CONTRADICT THEM THERE WAS SOME OF THAT KIND TRANSPIRE BECAUSE I HAD REASON TO BELIEVE THERE WAS.</p> <p>BY COURT DID YOU BELIEVE</p> <p>MR. LEE GUILTY OR INNOCENT</p> <p>I DO NOT TO BE</p>		<p>INNOCENCE OF MR. LEE [space]</p> <p>COURT WHAT DO YOU MEAN BY THAT YOU BELIEVED THESE RUMORS AND THAT MR. LEE WAS THE LEADER DO YOU MEAN TO SAY THAT MR. LEE WAS GUILTY NO SIR I HAD HEARD THESE REPORTS AND BELIEVED SO FAR AS I COULD NOT CONTRADICT THEM</p> <p>IT IS SO MUCH RUMOR THAT I COULD NOT BELIEVE ANYTHING DID NOT KNOW WHAT TO BELIEVE WHO DONE IT I COULD NOT TELL [space] IT IS CLAIMED BECAUSE YOU BELIEVED <del>IF</del> THESE REPORTS THAT MR. LEE WAS GUILTY OR INNOCENT THAT IS NOT MY MEANING I DO NOT WISH TO BE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>UNDERSTOOD SO THAT IN MY MIND I BELIEVE FROM THESE REPORTS I BELIEVE THERE WAS MOUNTAIN MEADOW</p> <p>COMMITTED I DO NOT KNOW WHETHER IT IS TRUE OR NOT I HAVE NO REASON TO BELIEVE IT WAS TRUE. I BELIEVE BY REPORTS THERE HAD BEEN SOMETHING DONE I DO NOT CONSIDER IT TO BE KNOWLEDGE. BY COURT HE SIMPLY BELIEVES FACT</p> <p>THAT</p> <p>OCCURRENCE OF THIS KIND TOOK PLACE.</p> <p>BISHOP MR. THOMPSON DID YOU NOT BELIEVE WHEN YOU HEARD</p>		<p>BELIEVED SO [space]</p> <p>I BELIEVE THERE WAS A MOUNTAIN MEADOW MASSACRE COMMITTED I DO NOT KNOW WHETHER MR. LEE DONE IT OR WHO DONE IT DID NOT YOU SAY THAT YOU BELIEVED THESE REPORTS [space] I BELIEVED THAT BECAUSE THESE MEN WERE TRUTHFUL MEN AND I COULD NOT HELP BELIEVING THEM [space] COURT <del>THIS</del> BELIEVED ALL THESE FACTS ONLY ONE OF THE FACT THAT THERE WAS AN OCCURRENCE OF THIS KIND TOOK PLACE BUT AS TO MR. LEE HE IS GUILTY INNOCENT [space] BISHOP DID YOU NOT BELIEVE WHEN YOU HEARD</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THESE REPORTS MR. LEE WAS THERE AT THE TIME</p> <p>I NEITHER BELIEVED NOR DISBELIEVED IT. YOU STATE YOU COULD NOT DISPROVE REPORTS COULD YOU DISPROVE REPORT AS TO WHO WAS THERE <i>NO/ANY</i>[?] MORE THAN REPORT SAYING IT WAS NOT COMMITTED</p> <p>I DO NOT KNOW WHETHER IT WAS TRUE OR FALSE I COULD ONLY HAVE SLIGHT BELIEF AT THE TIME.</p> <p>DID NOT YOU THINK AT THE TIME IT WAS SO. OF COURSE I COULD NOT BELIEVE</p>		<p>THESE REPORTS THAT MR. LEE WAS THERE AT THE TIME AS THE REPORTS STATED I DID NOT BELIEVE IT OR DISPROVE IT [<i>space</i>]</p> <p>COULD YOU DISPROVE THE REPORTS THAT HE WAS THERE ANY MORE THAN THE REPORT THAT THE MURDER HAD BEEN COMMITTED DID YOU NOT BELIEVE THAT THE SAME AS THE OTHER PORTION OF IT I DID NOT KNOW WHETHER IT WAS TRUE OR FALSE IT WAS A VERY SLIGHT BELIEF DID NOT YOU BELIEVE THAT HE WAS THERE DIDN'T YOU THINK AT THE TIME THAT IS WAS SO<sup>59</sup> [<i>space</i>] OF COURSE I COULD NOT BELIEVE</p>
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59. Word apparently added later.

**RT**

**RS**

**BT**

**PS**

	<p>OTHERWISE SO OF COURSE I BELIEVED IT WAS SO.</p> <p>I SUBMIT COURT HE IS AN IMPROPER JUROR. COURT OVERRULED. YOU SAY YOU BELIEVED THESE REPORTS</p> <p>BECAUSE YOU COULD NOT DISPROVE THEM AND THAT</p> <p>J D LEE WAS PRESENT AND THE LEADER YOU BELIEVED THESE REPORTS</p> <p>BELIEVED HE WAS THERE AS MUCH AS</p>		<p>OTHERWISE DO NOT YOU STILL BELIEVE THIS WAY WHY I OF COURSE I DO [space] IF I UNDERSTAND YOUR QUESTION I WOULD LIKE TO UNDERSTAND IT [space]</p> <p>YOU SAY THAT YOU HEARD THESE REPORTS AND BELIEVED THAT THEY WERE TRUE BECAUSE YOU COULD NOT DISPROVE THEM THAT WHEN YOU HEARD THESE REPORTS THAT PARTIES THAT PRETENDED TO DETAIL FACTS TO YOU [space] JOHN D LEE WAS PRESENT AND THE LEADER THAT YOU BELIEVED THESE REPORTS <sup>[[36]]</sup> AND THAT YOU BELIEVED HE WAS THERE AS MUCH AS YOU BELIEVED</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THE CRIME WAS COMMITTED I BELIEVED THAT AS MUCH AS THE CRIME WAS COMMITTED I BELIEVED THAT AS MUCH AS I BELIEVED ALL THE REST. [space] I HAVE HAD NOTHING TO CAUSE ME TO CHANGE BY COURT YOU WILL STAND ASIDE.</p> <p><b>ROBERT HEYBORNE AND JAMES H HUNT</b> CLERK SWORE BOTH OF THEM. WRONG MEN THESE MEN WAS SWORN AND RETIRED. <b>HUNT</b> WAS SWORN. <b>JAMES WILSON HUNT</b></p> <p>BY CAREY WE CHALLENGE HIM HIS NAME IS WAS ON THE CLERK'S LIST <b>JAMES H. HUNT</b> CHALLENGE SUSTAINED BY COURT OBJECTED TO BY DEFENSE.</p>		<p>THAT THE CRIME WAS COMMITTED I BELIEVED THAT AS MUCH AS THE REST [space] HAVE YOU CHANGED YOUR OPINION</p> <p>I HAVE HAD NOTHING TO CAUSE ME TO CHANGE IT. [space] COURT SUSTAINED CHALLENGE. [space] <b>ROBERT HAYNARD JAMES H. HUNT</b> SWORN ON THEIR VOIR DIRE [space]</p> <p>WHAT IS YOUR NAME JAMES WILSON HUNT CLERK HOW IS IT THAT NAME LISTED CHALLENGED ON ACCOUNT OF THE DIFFERENCE BETWEEN THE LIST AND REAL NAME</p> <p>OBJECTED TO <del>BY THE</del> SUTHERLAND ON THAT</p>
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**RT**

**RS**

**BT**

**PS**

	<p><b>JAMES GIBSON.</b></p> <p>BY CAREY RESIDE CEDAR CITY IRON COUNTY</p> <p>LIVED THERE 18 YEARS IN THE COUNTY. CITIZEN UNITED STATES NATURALIZED</p> <p>NATURALIZED SECOND DISTRICT BY JUDGE HAWLEY READ AND WRITE</p> <p>ANY CONSCIOUS SCRUPLES</p> <p>FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH I HAVE NOT</p> <p>I KNOW PRISONER AT BAR BY SIGHT NOT ANY CONNECTION BY</p>		<p>GROUND. EXCEPTION [space] <b>JJAMES GIBSON SWORN</b> ON HIS VOIR DIRE [space] HENRY [space] WHERE RESIDE CEDAR CITY IRON COUNTY HOW LONG HAVE YOU LIVED THERE 18 YEARS ABOUT [space] CITIZEN</p> <p>NATURALIZED WHERE NATURALIZED IN THIS COURT</p> <p>JUDGE HAWLEY CAN YOU READ AND WRITE THE ENGLISH LANGUAGE I DO CONSCIOUS SCRUPLES AGAINST FINDING VERDICT</p> <p>I HAVE NOT ACQUAINTED WITH THE PRISONER AT THE BAR I KNOW HIM BY SIGHT ARE YOU ANY CONNECTION OF</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MARRIAGE OR OTHER WISE I HAVE NOT FORMED OR EXPRESSED ANY OPINION AS TO HIS GUILT OR INNOCENCE I</p> <p>WAS LIVING SAN BERNARDINO CALIFORNIA IN 1857 <sup>[19]</sup> I LANDED THIS TERRITORY 19 DAY OF DECEMBER 1857. I HAVE NOT TALKED WITH ANYONE</p> <p>HAVE HEARD IT RUMORED AROUND. I HAVE NOT LIVED IN CEDAR CITY <del>SINCE</del> EVER SINCE THAT TIME.</p> <p>I CAME THROUGH WHAT IS TERMED MOUNTAIN MEADOWS, IN DECEMBER 57 THAT IS IF THAT</p>		<p>HIS MARRIAGE OR OTHERWISE NO SIR <del>N</del> FORMED OR EXPRESSED OPINION AS TO HIS GUILT OR INNOCENCE I HAVE NOT [space] WHERE LIVING IN 57 SAN BERNARDINO CALIFORNIA I LANDED HERE 19 DECEMBER 57 DID YOU EVER TALK WITH ANYONE ABOUT THIS CASE I HAVE NOT I HAVE HEARD RUMORS AROUND HAVE YOU LIVED IN CEDAR CITY SINCE THAT TIME NO SIR WHERE DID YOU RESIDE WHEN YOU FIRST CAME BACK I DID/ID[?] [space] DID YOU COME OVER THE GROUND I CAME OVER WHAT IS TERMED MOUNTAIN MEADOWS [space] IN DECEMBER 57 THAT IS IF THAT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IS THE YEAR THAT WAS DONE I AM NOT POSITIVE.</p> <p>DID YOU SEE ANY OF THE REMAINS OF THAT AFFAIR</p> <p>OBJECTED TO DEFENSE BY COURT THAT IS NOT PROPER QUESTION. BY BISHOP REASON WE OBJECT MORE PARTICULARLY TO HIS ASKING THIS QUESTION IS FROM SUBPOENAS THAT HAVE BEEN ISSUED WE FIND NAME SAME AS HIS AMONG LIST OF WITNESS AMONG PROSECUTION WE ARE NOT WILLING FOR THEM TO TAKE DOUBLE ADVANTAGE SO RATHER HE IS NOT JUROR IF THEY RATHER HE IS NOT WITNESS AND THEN SELECT WHICH PLACE THEY WILL USE</p>		<p>IS THE YEAR THAT THIS WAS DONE I AM NOT POSITIVE THAT THIS IS THE YEAR DID YOU SEE ANY OF THE REMAINS OF THAT AFFAIR THERE OBJECTED TO OVERRULED</p> <p>I DID SIR DID YOU <i>HAVE/KNOW[?]</i> <i>NT-/[?]</i> ABOUT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HIM. BY COURT THEY HAVE RIGHT TO USE HIM AS WITNESS. I CAME OVER THAT GROUND. I COULD NOT TELL YOU WHERE I FIRST HEARD OF IT. HEARD OF IT WHEN FIRST CAME FROM SAN BERNARDINO. BY HOGE WE OBJECT TO THAT STYLE OF ASKING QUESTIONS. HE ASKED HIM IF HE KNEW OF THE MASSACRE.</p> <p>YOU HAVE HEARD OF IT AND SAY</p> <p>BEFORE YOU LEFT BERNARDINO YES SIR. I SUPPOSE I PASSED OVER GROUND</p> <p>I PASSED OVER MOUNTAIN MEADOW VALLEY. NEVER</p>		<p>THAT MATTER AFTER YOU ARRIVED <sup>[[37]]</sup> I DID NOT WHERE DID YOU FIRST HEAR OF IT I COULD NOT TELL YOU DID YOU HEAR OF IT AFTER YOU</p> <p>CAME FROM SAN BERNARDINO I DID [space]</p> <p>YOU KNEW ABOUT THIS MASSACRE THEN BEFORE YOU CAME HERE [space] I HEARD THAT A MASSACRE HAD TAKEN PLACE BEFORE I LEFT SAN BERNARDINO</p> <p>YOU PASSED RIGHT OVER THE GROUND I SUPPOSE SO I PASSED THROUGH MOUNTAIN MEADOW VALLEY [space] NEVER HAD CURIOSITY ←TO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>I WAS 14 YEARS OF AGE WHEN I PASSED OVER THAT VALLEY</p> <p>I DID NOT HAVE ANY CURIOSITY OF THIS MATTER. SOMETIME AFTER I HEARD OF OCCURRENCE COULD NOT TELL YOU HOW LONG AFTER. THROUGH ALL THESE YEARS YOU HAVE NOT HEARD CURIOSITY TO TALK ABOUT IT. I HAVE NOT RESIDED IN CEDAR CITY DURING THIS TIME I HAVE TRAVELED GOOD DEAL THROUGH TERRITORY DURING THAT TIME I HAVE BEEN IN ENGLAND 2</p>		<p>ASK-&gt; IF YOU ASK MY AGE YOU WILL NOT SUPPOSE I HAD CURIOSITY [space] I WAS A BOY OF 14 THEN DID YOU HEAR ANYTHING ABOUT IT AFTER YOU ARRIVED AT CEDAR CITY I DID HEAR SOMETHING [space]</p> <p>AND FROM ALL THIS I MIGHT HAVE NOT HAD CURIOSITY HOW[?] TO TALK ABOUT IT [space] WHERE HAVE YOU RESIDED</p> <p>I HAVE TRAVELED GOOD DEAL</p> <p>I HAVE BEEN IN ENGLAND TWO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>YEARS</p> <p>I HAVE NEVER BEEN TO MOUNTAIN MEADOWS DURING THIS TIME.</p> <p>I HAVE LIVED SINCE I RETURNED FROM TRAVELING <i>ANYWHERE</i>[?]. MY HOME HAS ALWAYS BEEN THERE.</p> <p>I HAVEN'T CURIOSITY TO INQUIRE ANYTHING ABOUT IT NEVER TALKED WITH ANYBODY ABOUT IT. YOU HAVE NO OPINION ABOUT IT WHATEVER.</p>		<p>YEARS WHAT IS YOUR OCCUPATION <i>FARMER</i>[?] HAVE YOU EVER BEEN TO THE MOUNTAIN MEADOWS SINCE THAT TIME I NEVER HAVE</p> <p>HOW LONG HAVE YOU LIVED IN CEDAR CITY THIS TIME <del>SINCE I</del></p> <p>MY HOME HAS ALWAYS BEEN THERE AND STILL LIVING RIGHT THERE YOU HAVE NOT HAD CURIOSITY TO INQUIRE ANYTHING ABOUT IT I HAVE NOT HAVE NOT TALKED WITH ANYBODY I HAVE NOT [<i>space</i>] YOU HAVE NO OPINION ABOUT IT WHATEVER I HAVE NO OPINION [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE YOU FREQUENTLY MET DEFENDANT NO SIR.</p> <p>NEVER TALKED WITH DEFENDANT IN MY LIFE THAT I KNOW OF.</p> <p>AND NEVER HAVE SPOKEN OF IT TO ANY PERSON WITH ANY VIEW OF GETTING INFORMATION. IN CONNECTION WITH OTHERS PERHAPS I</p> <p>HAVE SPOKEN OF IT I COULD NOT TELL WHOM IT WAS.</p> <p>I DO NOT KNOW</p> <p>I HAVE TALKED ABOUT IT MORE THAN</p>		<p>HAVE YOU FREQUENTLY MET THE DEFENDANT NO SIR EVER SEEN HIM BEFORE <del>LAST</del> YES SIR EVER TALKED WITH HIM NEVER THAT I KNOW OF FOR THE 18 YEARS YOU HAVE RESIDED IN THIS TERRITORY YOU NEVER HAVE SPOKE OF IT TO ANY PERSON NOT WITH THE VIEW OF GETTING INFORMATION [space] IN CONNECTION WITH OTHERS PERHAPS I HAVE REFERRED TO IT WHOM HAVE YOU SPOKE WITH I CAN'T TELL YOU WHOM I HAVE SPOKE TO HAVE YOU TALKED ABOUT IT MORE THAN ONCE I DO NOT KNOW THAT I HAVE NOT CERTAIN THAT I HAVE SPOKE OF IT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ONCE AND I          COULD NOT BE          SURE I HAVE          TALKED ABOUT          IT ONCE. I THINK          YOU CAN TAKE          THAT JUROR.          MR. GIBSON          RESIDE          BEAVER          LIVED HERE 5          OR 6 YEARS          CITIZEN UNITED          STATES          NATURALIZED          IN JUDGE          HAWLEY'S          COURT.          READ          AND WRITE</p> <p>CONSCIOUS          SCRUPLES          AGAINST          FINDING          VERDICT</p> <p>NO I          BELIEVE NOT          I KNOW          PRISONER          AT BAR BY          SIGHT ONLY I          BELIEVE</p>		<p>ONCE [space]          PASSED          [space]</p> <p><b>GIBSON</b>          RESIDE IN          BEAVER HOW          LONG FIVE          OR 6 YEARS          CITIZEN</p> <p>NATURALIZED          WHERE JUDGE          HAWLEY'S          COURT HERE IN          THIS CITY READ          AND WRITE          THE ENGLISH          LANGUAGE YES          SIR CONSCIOUS          SCRUPLES          AGAINST          FINDING          VERDICT WHERE          THE          PUNISHMENT          MIGHT BE          DEATH NO I          BELIEVE NOT DO          YOU KNOW THE          PRISONER AT          THE BAR BY          SIGHT ONLY  <sup>[[38]]</sup>60 NO          CONNECTION          WITH HIM HAVE          YOU [space]          GUILT OR          INNOCENCE YES</p>
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60. "BOOK 2" on verso of page 38.

**RT**

**RS**

**BT**

**PS**

	<p>I HAVE FORMED OPINION PROVIDED WHAT I HAVE HEARD IS TRUE IT WOULD BE FIXED HAVE NO KNOWLEDGE OF CIRCUMSTANCE S EXCEPT WHAT I HAVE HEARD FROM OTHERS I HAVE TALKED GOOD DEAL ABOUT IT HAVE HAD SOME CURIOSITY ABOUT IT. IS YOUR OPINION OF MANNER THAT WOULD REQUIRE EVIDENCE TO CHANGE YES SIR IT WOULD REQUIRE EVIDENCE TO CHANGE IT. HAVE YOU ANY OPINION THAT WOULD AFFECT THE VERDICT</p> <p>I AM VERY LITTLE PREJUDICED IF CIRCUMSTANCE S WENT OTHER WAY I BELIEVE I COULD GIVE</p>		<p>I THINK I HAVE  PROVIDED WHAT I HAVE HEARD BE TRUE I THINK I HAVE I HAVE NO KNOWLEDGE  EXCEPT WHAT I HAVE HEARD FROM OTHERS [space] I HAVE TALKED GOOD DEAL ABOUT IT [space]  IS YOUR OPINION ONE THAT IT WOULD REQUIRE EVIDENCE TO CHANGE YES SIR I THINK IT WOULD [space]  IS IT AN OPINION THAT WOULD AFFECT YOUR VERDICT OR INFLUENCE YOUR VERDICT [space] I AM A VERY LITTLE PREJUDICED ALTHOUGH IF CIRCUMSTANCE S SHOULD GO THE OTHER WAY I THINK I COULD GIVE A ←STRAIGHT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>VERDICT <sup>[20]</sup>  I THINK I COULD  TRY CASE  ON  EVIDENCE</p> <p>IN COURT I  THINK I COULD.  BY SPICER</p> <p>I HAVE  HEARD THIS  THING TALKED  OVER VERY  GREAT DEAL.</p> <p>I HAVE  FORMED AN  OPINION A</p> <p>FIXED</p> <p>TOLERABLY  DECIDED BUT  EVIDENCE I  SEE COULD  CHANGE IT. WE  CHALLENGE  JUROR FOR CASE  BY COURT YOU  WILL STAND  ASIDE. <i>[space]</i>  <b>JOHN BREWER</b>  SWORN BY  CLERK.  BY CAREY  CITIZEN UNITED  STATES NATIVE  READ AND  WRITE</p>		<p>VERDICT&gt;  COULD YOU  TRY THIS CASE  UPON THE  EVIDENCE  PRODUCED</p> <p>IN COURT I  THINK I COULD  <i>[space]</i> SPICER  YOU SAY JAMES  YOU HAVE  HEARD THIS  THING TALKED  OVER <i>[space]</i> A  GREAT DEAL  YES SIR UPON  WHAT YOU  HAVE HEARD  YOU HAVE  FORMED A  FIXED OPINION  <i>[space]</i> I  HAVE FORMED  AN OPINION  TOLERABLY</p> <p>SO EVIDENCE I  THINK <i>[space]</i></p> <p>CHALLENGED  FOR CASE  CHALLENGE  SUSTAINED  <i>[space]</i>  <b>JOHN BREWER</b>  SWORN ON HIS  VOIR DIRE <i>[space]</i>  ARE YOU A  CITIZEN YES SIR  NATIVE DO YOU  READ AND  WRITE THE  ENGLISH  LANGUAGE YES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CONSCIOUS SCRUPLES AGAINST FINDING VERDICT NO SIR</p> <p>I HAVE SEEN PRISONER</p> <p>NO CONNECTION HAVE YOU FORMED EXPRESSED OPINION AS TO INNOCENCE OR GUILT I HAVE NOT.</p> <p>SPICER WHERE YOU RESIDE CIRCLEVILLE PIUTE COUNTY. <del>LIVED</del></p> <p>RESIDED THERE LITTLE OVER 2 YEARS. ARE YOU CERTAIN THAT PART OF CIRCLEVILLE YOU LIVE IN IS PIUTE COUNTY YES SIR. LIVED NEVADA BEFORE THAT TIME</p> <p>LIVED THERE</p>		<p>SIR ANY CONSCIOUS SCRUPLES AGAINST FINDING A VERDICT NO SIR [space] DO YOU KNOW THE PRISONER AT THE BAR <del>NO</del> YES SIR I HAVE SEEN HIM ANY CONNECTION NO SIR</p> <p>GUILT OR INNOCENCE NO SIR <i>BROTHER</i>[?] SPICER [space] WHERE ARE YOU RESIDING CIRCLE VILLE PIUTE COUNTY WHAT COUNTY PIUTE COUNTY HOW LONG HAVE YOU RESIDED THERE LITTLE OVER 2 YEARS ARE YOU CERTAIN THAT THAT PART OF CIRCLE VILLE YOU LIVE IN IS IN PIUTE COUNTY WHERE DID YOU LIVE BEFORE THAT TIME NEVADA HOW LONG IN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ONE YEAR BEFORE THAT AT CALIFORNIA CAME FROM CALIFORNIA TO NEVADA.</p> <p>LIVED IN NAPA VALLEY CALIFORNIA. YOU HAVE LIVED CIRCLEVILLE LAST 2 YEARS.</p> <p>I AM FARMING LITTLE GOT SOME STOCK.</p> <p>SINCE YOUR RESIDENCE IN UTAH HAVE YOU FORMED MUCH OF AN ACQUAINTANCE WITH THE PEOPLE I HAVE NOT I HAVE NOT BEEN AROUND MUCH.</p> <p>MADE SPEECHES OR VISITS ETC. I HAVE NOT.</p>		<p>NEVADA ONE YEAR WHERE BEFORE THAT TIME CALIFORNIA CAME FROM CALIFORNIA TO NEVADA YES SIR [space] WHAT PART OF CALIFORNIA DID YOU LIVE IN IN NAPA VALLEY</p> <p>YOU HAVE LIVED IN CIRCLE VILLE 2 YEARS YES SIR WHAT BUSINESS FARMING A LITTLE AND HAVE SOME STOCK <sup>[[39]]61</sup> RANCHING? YES SIR [space] SINCE YOUR RESIDENCE IN UTAH HAVE YOU FORMED MUCH OF AN ACQUAINTANCE WITH THE PEOPLE NO NOT VERY MUCH BEEN AROUND MUCH NO SIR HAVE YOU MADE SPEECHES VISITS TRAVELS IN ANY OTHER PART OF UTAH</p>
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61. "W. L. COOK ESQ. BEAVER CITY UTAH. C/O CLERK J. R. WILKINS" on verso of page 39.

**RT**

**RS**

**BT**

**PS**

	<p>LIVED IN EUREKA PREVIOUS TO COMING HERE. WAS MINING SOME THERE. WHEN WAS FIRST TIME YOU HEARD OF THIS AFFAIR MOUNTAIN MEADOW AFFAIR THIS CASE</p> <p>I COULD NOT SAY WHEN HEARD OF IT OUT IN NEVADA.</p> <p>DO YOU REMEMBER</p> <p>MANNER OR CIRCUMSTANCE S WHO TALKED OF IT ETC. I DO NOT. ONLY KNOW I HAVE HEARD OF IT THERE. DO YOU REMEMBER WHAT YOU HEARD AND HOW YOU HEARD IT NO I COULD NOT DID</p>		<p>NO SIR [space] WHERE ABOUTS IN NEVADA DID YOU LIVE [space] IN EUREKA</p> <p>WHAT BUSINESS THERE MINING</p> <p>WHEN WAS THE FIRST TIME YOU HEARD OF THIS AFFAIR AT MOUNTAIN MEADOWS THIS CASE THE SUBSTANCE OF IT I COULD NOT SAY WHEN I HEARD IT IN NEVADA [space] THAT WAS THE YEAR BEFORE YOU CAME HERE [space] DO YOU REMEMBER ANYTHING OF THE MANNER OR CIRCUMSTANCE S IN WHICH YOU HEARD IT NO SIR YOU ONLY KNOW THAT YOU HEARD OF IT THERE [space] DO YOU REMEMBER WHAT YOU HEARD AND HOW YOU HEARD IT DID IT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NOT MAKE ANY IMPRESSION ON MY MIND.</p> <p>DO NOT SUPPOSE I FORMED OPINION AT THAT TIME OR EXPRESSED.</p> <p>DO NOT REMEMBER WHO TALKED OF IT TO ME I HAVE HEARD IT TALKED OF SINCE I CAME TO UTAH COULD NOT TELL YOU NOW WHO BY. CAN'T REMEMBER</p> <p>ANY PARTICULAR CONVERSATION</p>		<p>MAKE SUCH AN IMPRESSION ON YOUR MIND THAT YOU REMEMBER ANYTHING OF WHAT WAS TALKED ABOUT AT THAT TIME NO SIR DID YOU FORM OR EXPRESS ANY OPINION AT THAT TIME AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT NO SIR I DO NOT KNOW THAT I DID DON'T REMEMBER WHO TALKED WITH YOU NO SIR HAVE YOU HEARD IT TALKED OVER SINCE YOU CAME TO UTAH I HAVE</p> <p>DO YOU REMEMBER WHO BY [space] NO SIR DO YOU REMEMBER ANY PARTICULAR CONVERSATION YOU HAVE HEARD IN RELATION TO IT NO SIR HAVE YOU HEARD IT TALKED OVER</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ONLY IN GENERAL CONVERSATION.</p> <p>DO NOT REMEMBER</p> <p>NUMBER OF TIMES HAVE HEARD IT SPOKEN OF HAVE HEARD GOOD MANY TIMES. DO YOU REMEMBER</p> <p>WHAT DRIFT TONE SUBSTANCE THAT TALK IN RELATION TO IT WAS. "YES I REMEMBER THAT." [space] DID THESE CONVERSATION S</p> <p>MAKE IMPRESSION ON YOUR MIND</p> <p>OBJECTED TO BY CAREY COURT <del>PARTIALLY</del> SUSTAINED ≡SUSTAINED≡ AND</p>		<p>ANY MORE THAN IN GENERAL CONVERSATION INCIDENTALLY NO SIR DO YOU REMEMBER ANYTHING OF THE NUMBER OF TIMES YOU HAVE HEARD IT TALKED ABOUT NO SIR</p> <p>CAN YOU REMEMBER WHETHER FEW OR MANY TIMES I HAVE HEARD IT GREAT MANY TIMES [space] DO YOU REMEMBER WHAT THE DRIFT OR TONE OR SUBSTANCE OF THAT TALK IN RELATION TO IT WAS YES [space]</p> <p>DID THESE CONVERSATION S OR ANY OF THEM MAKE AN IMPRESSION ON YOUR MIND IN RELATION TO IT OBJECTED TO</p> <p>SUSTAINED EXCEPTION</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AFTERWARD OVERRULED QUESTION BEING ASKED. AFTER HEARING THESE CONVERSATION S AFTER HAVING HEARD THIS MATTER TALKED OVER DID YOU AT ANY TIME FORM OR EXPRESS ANY OPINION WITH RELATION TO GUILT OR INNOCENCE OF DEFENDANT "I HAVE". WAS THAT DECIDED POSITIVE CERTAIN OPINION. DID YOU EXPRESS IT DECIDEDLY</p> <p>AS TO HIS GUILT OR INNOCENCE I DO NOT THINK I DID. [space] YOU SAY YOU FORMED OR EXPRESSED OPINION</p> <p>YOU SAY YOU FORMED</p> <p>SOME OPINION.</p>		<p>[space]</p> <p>AFTER HEARING THESE CONVERSATION S AFTER HAVING HEARD THIS MATTER TALKED OVER DID YOU EVER AT ANY TIME FORM OR EXPRESS OPINION IN RELATION TO THE GUILT OR INNOCENCE OF THE DEFENDANT YES [space] WAS THAT OPINION A DECIDED ONE OR POSITIVE ONE OR CERTAIN OPINION I FORMED OR EXPRESSED IT DECIDEDLY AND WAS IT AN OPINION AS TO THE GUILT OR INNOCENCE I DO NOT THINK I DID [space] BUT YOU SAY YOU FORMED OR EXPRESSED OPINION WAS YOUR OPINION A DECIDED ONE [space] SAY YOU HAVE FORMED OR EXPRESSED AN OPINION AS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>I MIGHT AT THAT TIME. BREWER</p> <p>DO NOT YOU REMEMBER YOU DID AT THE TIME WHEN HEARD CONVERSATION TALKED OF</p> <p>OBJECTED TO CAREY [space] SPICER I HAVE ASKED WITNESS IF UPON HEARING MATTER</p>		<p>TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT WAS THAT OPINION A DECIDED ONE [[Bk 2 1]] <b>NO 3</b><sup>62</sup> IS YOUR ANSWER THEN THAT AFTER HEARD THESE CONVERSATION S YOU HAD A OPINION IN RELATION TO IT YOU HAVE FORMED SOME OPINION OR EXPRESSED SOME OPINION IN RELATION TO IT [space] I MIGHT AT THAT TIME [space] I WILL ASK YOU [space] DO NOT YOU REMEMBER ALL THAT YOU DID AFTER HEARING THIS TALKED OVER THAT YOU FORMED OR EXPRESS AN OPINION OBJECTED TO</p>
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62. "NO 3" is in Rogerson's longhand.

**RT**

**RS**

**BT**

**PS**

	<p>TALKED OF HE FORMED AN OPINION RELATIVE TO IT.</p> <p>MR. BREWER OPINION OR THE EXPRESSIONS YOU MADE AT THE TIME OF HEARING <sup>[21]</sup>63 FOR INSTANCE</p> <p>DID IT HAVE FORM ANY OPINION WITH</p> <p>RELATION TO GUILT OR INNOCENCE OF THE DEFENDANT NO. I UNDERSTAND YOU YOU HEARD THIS MATTER TALKED OF</p> <p>HAVE YOU HEARD IT SINCE YOU CAME TO TOWN I HAVE AFTER WHAT YOU HAVE HEARD WHEN IT HAS BEEN BROUGHT</p>		<p>UNLESS RELATED TO THE GUILT OR INNOCENCE</p> <p>[space]</p> <p>AN OPINION OR THE EXPRESSIONS[?] YOU MADE AT THE TIME OF HEARING RELATED THESE CIRCUMSTANCE S DID YOUR</p> <p>OPINIONS AT THAT TIME HAVE ANY RELATION TO THE GUILT OR INNOCENCE OF THE DEFENDANT?<sup>64</sup></p> <p>NO [space] I UNDERSTAND YOU THAT YOU HAVE HEARD THIS MATTER TALKED OVER SEVERAL TIMES HAVE YOU HEARD IT SINCE YOU CAME TO TOWN I HAVE [space] AFTER WHAT YOU HAVE HEARD</p>
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63. "~~WE~~ THURSDAY JULY 22/75 2 PM." is at the top of the page.

64. "?" in Rogerson's hand.

**RT**

**RS**

**BT**

**PS**

	<p>HOME TO YOUR MIND HAVE YOU ANY PREJUDICE OR BIAS</p> <p>I HAVE NOT. IS YOUR MIND PERFECTLY FREE FROM SO AS TO PERMIT YOU TO RENDER IMPARTIAL VERDICT,</p> <p>I THINK IT IS. &lt;BY COURT&gt; GENTLEMEN OF THE JURY YOU WILL NOT TALK TO ANYBODY WITH REGARD TO THIS CASE ETC. WILL TAKE RECESS UNTIL THIS AFTERNOON 2 O'CLOCK JUDGE ENTERED COURT FIFTEEN MINUTES PAST TWO. CLERK READ LIST OF NAMES. MR. JAMES <b>C ROBINSON</b> WAS ABSENT BY WHARDON IF COURT PLEASE HE WOULD LIKE</p>		<p>HAVE YOU ANY ACTUAL BIAS OR PREJUDICE AGAINST THE DEFENDANT I HAVE NOT IS YOUR MIND PERFECTLY FREE AS TO MATTER SO AS TO PERMIT YOU TO RENDER A TRUE AND IMPARTIAL VERDICT WHEN THE LAW AND EVIDENCE MAY BE GIVEN TO YOU I THINK IT IS [space]</p> <p>RECESS UNTIL TWO O'CLOCK [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TO HAVE NAMES OF DENNY AND HAWLEY APPEAR ON RECORD PART OF THE PROSECUTION. BY SPICER J C HEISTER</p> <p>LIVE PIUTE COUNTY</p> <p>CIRCLEVILLE</p> <p>LIVED THERE NEARLY 2 YEARS WHAT BUSINESS ARE YOU ENGAGED IN RANCHING WHERE DID YOU LIVE BEFORE YOU CAME THERE I LIVED STATE MICHIGAN</p> <p>I WAS THERE ON A VISIT. WHERE DID YOU RESIDE PRIOR COMING PIUTE COUNTY I MADE MY RESIDENCE MICHIGAN ON A VISIT. HAVE YOU</p>		<p>C MYRON HAWLEY ENTERED AS ATTORNEY FOR THE PROSECUTION [space] J C HEISTER WHERE DO YOU RESIDE PIUTE COUNTY IN THIS TERRITORY CIRCLE VILLE HOW LONG HAVE YOU RESIDED THERE NEARLY 2 YEARS WHAT BUSINESS DO YOU ENGAGE IN RANCHING WHERE DID YOU LIVE BEFORE YOU CAME THERE I LIVED IN THE STATE OF MICHIGAN THE WINTER BEFORE I CAME HERE WHAT WAS YOUR BUSINESS THERE I WAS ON A VISIT THERE WHERE DID YOU RESIDE PRIOR TO COMING TO PIUTE COUNTY I COUNT MY RESIDENCE IN MICHIGAN ON A VISIT [space] HAVE YOU</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HEARD OF THIS AFFAIR MOUNTAIN MEADOWS TALKED OVER SINCE YOU HAVE BEEN HERE I HAVE HEARD OF IT FREQUENTLY I HAVE. TALKED OVER NUMBER OF TIMES DIFFERENT PERSONS YES SIR. DID YOU HEAR WHAT WAS SUPPOSED TO BE FACTS RELATIVE TO IT</p> <p>YES SIR I THINK I HAVE. UPON HEARING THAT DID YOU FORM OR EXPRESS DECIDED OPINION REGARD MATTER I DID NOT.</p> <p>DID YOU FORM OR EXPRESS ANY OPINION I DID. WAS THAT OPINION A DECIDED ONE IT WAS NOT. BY BASKIN MAY IT PLEASE YOUR</p>		<p>HEARD THIS AFFAIR OF THE MOUNTAIN MEADOW TALKED OVER SINCE YOU CAME HERE [space] I HAVE HEARD OF IT [space] FREQUENTLY I HAVE [space] TALKED OVER NUMBER OF TIMES WITH DIFFERENT PERSONS YES SIR [space] DID YOU HEAR WHAT WAS SAID TO BE THE FACTS IN RELATION TO IT AT THE TIME YES SIR I THINK I HAVE ON HEARING THAT DID YOU FORM OR EXPRESS A DECIDED OPINION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT HERE I DID NOT DID YOU FORM OR EXPRESS ANY OPINION I DID [space] WAS THAT OPINION A DECIDED ONE IT WAS NOT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HONOR IT MUST BE OPINION AS TO THE GUILT OR INNOCENCE OF THE PARTY. [space] BY SPICER DID IT RELATE TO GUILT OR INNOCENCE OF DEFENDANT YES SIR THAT IS HOW I UNDERSTOOD QUESTION EXPRESSED. BY SPICER WE CHALLENGE HIM FOR CASE. BY BISHOP I WOULD LIKE REPORTER TO READ HIS ANSWERS TO QUESTIONS. "BY WHEDON COURT PLEASE I WOULD LIKE ONLY ONE QUESTION BE ASKED AT A TIME." [space] BY CAREY MR. HEISTON[?] YOU SAY YOU LIVE IN PIUTE COUNTY YES SIR LIVED THERE NEARLY TWO YEARS. WHAT DID YOU SAY ABOUT HAVING FORMED OR EXPRESSED OPINION</p>		<p>DID YOUR OPINION RELATE TO THE GUILT OR INNOCENCE OF THE DEFENDANT</p> <p>◀THAT IS THE WAY▶ I UNDERSTOOD THE QUESTION <sup>[[2]]</sup> IN THE FIRST PLACE [space] CHALLENGED FOR CASE [space] MAY [space]</p> <p>CAREY [space] YOU SAY YOU LIVE IN PIUTE COUNTY YES SIR LIVE THERE TWO YEARS NEARLY TWO YEARS WHAT DID YOU SAY AS TO HAVING FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OF</p>
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**RT**

**RS**

**BT**

**PS**

	<p>I SAY I HAD FORMED AN OPINION. I UNDERSTOOD YOU TO SAY YOU HAD NOT FORMED AN OPINION I SAID I HAD NOT FORMED A DECIDED OPINION. I MEAN BY THAT</p> <p>FIXED OPINION CAN NOT BE CHANGED. HAVE YOU FORMED SUCH AN OPINION SO THAT YOU COULD NOT TRY THE CASE</p> <p>I HAVE NOT. <u>BY CAREY</u> HAVE YOU FORMED SUCH AN OPINION AS WOULD REQUIRE EVIDENCE TO REMOVE IT I HAVE NOT. I SUBMIT JUROR IS QUALIFIED JUROR BY</p>		<p>MR. LEE [space] I SAID I HAD FORMED ONE [space]</p> <p>I SAID I HAD NOT FORMED A DECIDED OPINION [space] WHAT DO YOU MEAN BY A DECIDED OPINION [space] A FIXED OPINION [space] THAT CAN NOT BE CHANGED [space] HAVE YOU FORMED SUCH AN OPINION THAT YOU COULD NOT TRY THE CASE UPON LAW AND EVIDENCE AS PRODUCED IN THE COURT I HAVE NOT OBJECTED TO [space] HAVE YOU FORMED SUCH AN OPINION AS WOULD REQUIRE EVIDENCE TO REMOVE IT I HAVE NOT [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>COURT DOES YOUR OPINION</p> <p>AFFECT THE VERDICT. NO SIR. BY COURT CHALLENGE IS OVERRULED BY HOGE WE EXCEPT TO THE CHALLENGE. [space] BY SPICER YOU SAY YOU OBJECT TO FURTHER EXAMINATION BY CAREY. BY SPICER</p> <p>HAVE YOU ANY BIAS OR PREJUDICE</p> <p>OBJECTED TO BY CAREY BY COURT YOU MUST GET DONE EXAMINING HIM BEFORE YOU CHALLENGE HIM. MUST ASK ALL YOUR QUESTIONS GET DONE BEFORE YOU CHALLENGE HIM. COURT WILL <sup>[22]</sup> NEVER GET DONE IN THAT STYLE. SPICER</p> <p>I RESIDE</p>		<p>IS YOUR OPINION SUCH AS WOULD AFFECT YOUR VERDICT NO SIR NOT AT ALL CHALLENGED OVERRULED.</p> <p>EXCEPTION</p> <p>SPICER [space] † UNDERSTAND HAVE YOU ANY BIAS OR PREJUDICE AGAINST THE DEFENDANT OBJECTED TO AS <del>THEY</del> AS A MATTER OF CHALLENGE HAS BEEN SUBMITTED [space] OBJECTION SUSTAINED [space]</p> <p>PAUL PRICE [space] SPICER WHERE DID YOU SAY YOU RESIDE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PIUTE COUNTY</p> <p>LIVED THERE 4 YEARS AND</p> <p>LIVED IN MISSOURI BEFORE THAT TIME. CAME FROM MISSOURI DIRECTLY THERE.</p> <p>WAS ENGAGED IN TWO OR 3 KINDS OF BUSINESS RANCHING THERE MINING LITTLE. I DO NOT KNOW WHAT PART YOU WOULD CALL IT</p> <p>BETWEEN CIRCLEVILLE AND MARYSVALE. WHAT DISTRICT ARE YOU MINING IN.</p> <p>I MAKE MY HOME ON THE RIVER</p> <p>BETWEEN CIRCLEVILLE AND MARYSVALE</p>		<p>PIUTE COUNTY HOW LONG HAVE YOU RESIDED THERE FOUR YEARS WHERE DID YOU LIVE</p> <p>BEFORE THAT TIME MISSOURI DID YOU COME FROM MISSOURI DIRECTLY THERE YES SIR WHAT BUSINESS ARE YOU ENGAGED IN</p> <p>RANCHING LITTLE AND MINING LITTLE</p> <p>WHAT PART OF PIUTE COUNTY DO YOU LIVE IN I LIVE BETWEEN CIRCLEVILLE AND MARYSVALE WHAT DISTRICT ARE YOU MINING IN OBJECTED TO [space] WHEREABOUTS DO YOU MAKE YOUR HOME WHEN YOU ARE THERE [space] BETWEEN CIRCLEVILLE AND MARYSVALE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PIUTE COUNTY.</p> <p>MINES I AM ENGAGED IN ARE ABOUT 15 MINES. I HAVE MINES THERE. HAVE YOU TENT THERE OBJECTED TO BY PROSECUTION TO COURT.</p> <p>SPICER HAVE YOU HEARD THIS MATTER TALKED OVER I HAVE HEARD IT SPOKEN OF</p> <p>I COULD NOT SAY I HAVE HEARD IT VERY MANY TIMES.</p> <p>I HAVE HEARD IT SPOKEN OF TWO OR 3 DIFFERENT TIMES. DID YOU EVER HEAR WHAT WAS SAID TO BE INTENDED STATEMENT OF IT NEVER HEARD ANYTHING ABOUT IT</p>		<p>[space] ABOUT HOW FAR FROM YOU ARE THE MINES YOU REFER</p> <p>15 MILES <del>HAVE YOU A CAMP</del> OBJECTED HOW MUCH OF YOUR TIME DO YOU SPEND IN THE CAMP OBJECTED TO SUSTAINED [space] <sup>[[3]]</sup> HAVE YOU HEARD THIS MATTER TALKED OVER I HAVE HEARD IT SPOKE OF [space] FREQUENTLY I CAN'T SAY THAT I HAVE VERY MANY TIMES HAVE YOU HEARD DIFFERENT PERSONS TALKING OF I HAVE HEARD IT SPOKEN OF TWO OR 3 DIFFERENT TIMES <del>HAVE YOU</del> DID YOU EVER HEAR WHAT WAS SAID TO BE A STATEMENT OF IT I HAVE ONLY HEARD</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PERSON SPEAKING ABOUT IT I DID NOT SUPPOSE THEY KNEW ANYTHING ABOUT IT DID NOT KNOW WHETHER THEY DID OR NOT. NEVER HEARD ANYONE SPEAKING OF IT WHO PROFESSED TO BE AUTHORITY. DID YOU EVER HEAR ANY ONE GIVE AN ACCOUNT OF IT OBJECTED TO BY PROSECUTION BY COURT I DO NOT THINK IT WOULD BE IMPROPER QUESTION. SPICER ANY ONE YOU TALKED WITH PRETEND TO GIVE ACCOUNT OF AFFAIR I NEVER TALKED WITH ANYONE WHO PRETENDED TO KNOW ANYTHING ABOUT IT TALK</p>		<p>PERSONS SPEAKING ABOUT IT THEY DID NOT  KNOW ANYTHING ABOUT IT  NEVER HEARD ANYONE SPEAK OF IT THAT PROFESSED TO BE THERE &lt;DID YOU EVER HEAR ANYONE SPEAK OF IT WHO&gt; PRETENDED TO GIVE AN ACCOUNT OF IT OBJECTED TO OVERRULED [space] I DID NOT KNOW WHAT THEY WAS GIVING AN ACCOUNT OF IN FACT  I NEVER TALKED TO ANYONE THAT I RECALL <i>WHO KNEW/BUT WHEN[?] THE SUBJECT TALKING OF OTHER PARTIES</i></p>
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**RT**

**RS**

**BT**

**PS**

	<p>AMONG THEMSELVES.</p> <p>DID YOU EVER FORM OR EXPRESS ANY OPINION AS TO GUILT OF THIS DEFENDANT. NO SIR I DID NOT. HAVE YOU ANY BIAS PREJUDICE AGAINST DEFENDANT I AM NOT ACQUAINTED WITH DEFENDANT NEVER SAW HIM UNTIL I CAME INTO THE COURT ROOM. MR. PRICE ARE YOU TAX PAYER OF PIUTE COUNTY WE HAVE NO FURTHER QUESTION AT PRESENT. I HAVE PAID TAXES. BY COURT IT IS NOT MATERIAL WHETHER HE HAS PAID TAXES OR NOT. [space] MR.</p>		<p>AMONG THEMSELVES [space] FROM WHAT YOU HAVE HEARD OF IT <i>PROFESSEDLY</i>[?] DID YOU EVER FORM OR EXPRESS AN OPINION AS TO THE GUILT OR INNOCENCE OF THIS PARTY NO SIR I DID NOT HAVE YOU ANY BIAS OR PREJUDICE AGAINST THE DEFENDANT NO SIR ARE YOU ACQUAINTED WITH HIM I AM NOT <del>NO</del> NEVER SAW HIM UNTIL I CAME INTO THE COURT ROOM [space] ARE YOU A TAXPAYER IN PIUTE COUNTY I AM</p> <p>HAVE YOU PAID TAXES I HAVE [space]</p> <p>≤CAREY≥ MR.</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ARTHUR  YOU LIVE  AT CEDAR DO  YOU YES SIR.  ARE YOU SON  IN LAW OF  ISAAC C HAIGHT  I AM SIR. MR.  HAIGHT IS ONE  OF THE  DEFENDANTS IS  HE NOT.  OBJECTED TO BY  HOGE MR.  HAIGHT IS NOT  ONE OF THE  DEFENDANTS.  MR. HAIGHT  WAS FORMERLY  BISHOP [space]  BY HOGE  NOTE OUR  EXCEPTIONS TO  THESE  QUESTIONS  DOES HE HOLD  SOME POSITION  DOWN THERE</p> <p>DID  HE EVER  YES SIR  PRESIDENT.</p> <p>WHERE  WERE YOU  LIVING IN 57  IN CEDAR CITY</p>		<p>HAYBORNE[?]<sup>65</sup>  [space] YOU LIVE  AT CEDAR I DO</p> <p>ARE YOU A SON  IN LAW OF  ISAAC C HAIGHT  I AM MR.  HAIGHT IS ONE  OF THE  DEFENDANTS</p> <p>OBJECTED TO  [space] MR.  HAIGHT</p> <p>WAS FORMERLY  BISHOP  OBJECTED TO  OVERRULED  EXCEPTION</p> <p>DOES HE HOLD  SOME POSITION  DOWN THERE  NOT THAT I AM  AWARE OF DID  HE EVER [space]  IN CEDAR CITY  PRESIDENT  SOME POSITION  IN THE MILITIA  NOT THAT I AM  AWARE OF  [space] WHERE  YOU WERE  LIVING IN 57 <del>YES</del>  <del>SIR</del> IN CEDAR</p>
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65. *Salt Lake Tribune* gives the name as Christopher J. Arthur. The shorthand reads “HBRN[?]”. C. J. Arthur is Haight’s son-in-law.



**RT**

**RS**

**BT**

**PS**

	<p>BEEN LIVING THERE EVERY SINCE I WAS ABOUT 25 YEARS OLD. DID YOU KNOW ANYTHING ABOUT ANY ONE OF PERSONS GOING FROM CEDAR CITY DOWN THERE</p> <p>AT THAT TIME I HAVE NOT.</p> <p>WHAT WERE YOU DOING THERE AT THAT TIME I WAS BOOK KEEP FOR DESERET IRON COMPANY THERE AND THIS WAS SITUATED IN CEDAR CITY. I WAS PART OF MILITIA AT THAT TIME I WAS NOT ORDERED OUT MYSELF HEARD NOTHING OF IT I DID NOT KNOW THERE WERE MEN ORDERED</p>		<p>DID YOU KNOW ANYTHING ABOUT PERSONS GOING FROM CEDAR DOWN TO MOUNTAIN MEADOWS AT THAT TIME [space] NEVER HEARD OF IT YES I HEARD OF IT [space] WHAT WERE YOU DOING THERE AT THAT TIME I WAS BOOKKEEPER FOR WHO FOR THE DESERET IRON COMPANY WHERE WAS THEIR OFFICE SITUATED CEDAR CITY [space] WERE YOU A MEMBER OF THE MILITIA AT THAT TIME YES SIR WERE YOU NOT ORDERED OUT AT THAT TIME NO SIR [space] <sup>[[4]]</sup> DID NOT YOU KNOW THAT MEN WERE ORDERED UP</p>
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**RT**

**RS**

**BT**

**PS**

	<p>OUT AT THAT TIME. DID NOT KNOW ANY WENT FROM CEDAR CITY. I WAS AT MOUNTAIN MEADOWS I HAVE BEEN THERE SEVERAL TIMES YES SIR [23] YOU SAY YOU HAVE BEEN THERE SEVERAL TIMES YES SIR WERE YOU THERE ABOUT TIME OF MASSACRE NO SIR</p> <p>I WAS THERE AFTERWARDS I CAN NOT SAY HOW LONG AFTERWARDS I CAN'T SAY PARTICULARLY I HAD MARE RUNNING THERE I OWNED AND I HAD TO GO AFTER HER. I WISH YOU WOULD FIX TIME AS NEAR AS POSSIBLE WHEN I WAS THERE IT MIGHT</p>		<p>OUT AT THAT TIME NO SIR DON'T KNOW THAT ANY WENT FROM CEDAR CITY NO SIR WERE YOU EVER AT THE MOUNTAIN MEADOWS YES SIR WHEN I HAVE BEEN THERE SEVERAL TIMES [space]</p> <p>WERE YOU THERE ABOUT THE TIME OF THE MASSACRE NO SIR NEITHER BEFORE NOR AFTER [space] I WAS THERE AFTER [space]</p> <p>HOW SOON AFTER [space]</p> <p>I HAD A MARE RUNNING THERE THAT I OWNED AND I HAD TO GO AFTER IT [space] I WISH YOU WOULD FIX THE TIME AS NEARLY AS YOU CAN [space] IT MAY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BE TEN YEARS I WAS NOT THERE WITHIN TEN DAYS AFTER.</p> <p>WE CHALLENGE MR. ARTHUR BECAUSE HE IS CONNECTED BY MARRIAGE WITH ONE OF THE PARTIES INDICTED [space] MR. SUTHERLAND WE EXCEPT BECAUSE HE HAS NO PROPER GROUNDS FOR CHALLENGE. SUBPOENA ISSUED SEVERAL WEEKS AGO. IT WAS SOME TIME AFTER I WAS SUMMONED ANSWER TO MR. HOGE IT MAY BE 2 WEEKS AGO SINCE I WAS SUMMONED. ◀HOGE▶ BECAUSE HE WAS SUBPOENAED AS</p>		<p>BE TEN YEARS [space] WAS IT</p> <p>TEN DAYS AFTER WAS YOU IN THERE WITHIN TEN DAYS NO SIR I BELIEVE NOT [space] CHALLENGED FOR CASE [space] THAT HE IS CONNECTED BY MARRIAGE WITH ONE OF THE PARTIES INDICTED AND HAS BEEN SUBPOENAED <del>IN</del> AS A WITNESS IN THE CASE [space]</p> <p>CHALLENGE [space] OBJECTED TO WHEN WERE YOU SUBPOENAED SOMETIME AFTER I WAS SUMMONED AS A JUROR</p> <p><del>3 OR FOUR</del> 2 OR 3<sup>66</sup> WEEKS AGO [space]</p>
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66. "3 OR FOUR" was apparently written over "2 OR 3" by Rogerson.

**RT**

**RS**

**BT**

**PS**

	<p>WITNESS IS NOT SUFFICIENT GROUND SET HIM ASIDE AND OBJECT TO THE EXAMINATION. CAREY READ FIRST BISHOP <b>BP</b> CRIMINAL PROCEDURE. HOGE WISHED TO SEE PARAGRAPH HE HAD JUST READ [space] BY COURT ABOVE ALL OTHERS</p> <p>WE SHOULD GET JURY JUST AS IMPARTIAL AS POSSIBLE WHERE PARTY HAVE BEEN SUMMONED AS WITNESS IT IS NOT ABSOLUTELY NECESSARY HE SHOULD BE EXCLUDED WHERE THERE IS NO. TO SHOW</p> <p>SELECTION OF THAT MAN AS WITNESS WAS DONE FOR PURPOSE OF</p>		<p><b>1<sup>ST</sup></b> BISHOP PAGE 1027 [space] COURT IN A CRIMINAL CASE WHERE A PARTY'S LIFE IS AT STAKE</p> <p>ABOVE ALL OTHERS IS A CASE IN WHICH WE SHOULD GET A JURY AS IMPARTIAL AS POSSIBLE AND WHERE A PARTY HAS BEEN SUMMONED AS A WITNESS IT IS NOT AN ABSOLUTELY<sup>67</sup> NECESSARY THAT HE SHOULD BE EXCLUDED WHERE THERE IS NOTHING TO SHOW THAT THAT THE SELECTION OF THAT MAN AS A WITNESS OR ANY SUSPICIOUS CIRCUMSTANCE</p>
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67. "LY" apparently added later.

**RT**

**RS**

**BT**

**PS**

	<p>EXCLUDING HIM AS WITNESS. COURT WILL BE DISPOSED TO SET HIM ASIDE HOGE YOUR HONOR WILL NOTE OUR EXCEPTIONS. BY COURT CALL ANOTHER JUROR. <b>MILTON DAILY</b> PRESENT. CLERK SWORN HIM. WHAT IS YOU NAME MILTON DAILY I LIVE IN HORSEBACK. WASHINGTON COUNTY LIVED THERE OVER 11 YEARS. LIVED</p> <p>FARMINGTON NORTH OF SALT LAKE WENT FROM THERE TO WASHINGTON. LIVED IN 57 IN OGDEN CITY. I AM CITIZEN OF UNITED STATES NATIVE READ AND WRITE</p>		<p>S [space] OBJECTED<sup>68</sup></p> <p>I WOULD SET HIM ASIDE.</p> <p>EXCEPTION DEFENSE DRAWN [space] <b>MILTON DALEY</b> SWORN ON HIS VOIR DIRE [space]</p> <p>WHERE DO YOU LIVE HORSEBACK WASHINGTON COUNTY WHERE DID YOU LIVE PREVIOUS TO THAT &lt;IN&gt; FARMINGTON NORTH</p> <p>WHERE WERE YOU LIVING IN 57 I THINK IN OGDEN ARE YOU A CITIZEN OF THE UNITED STATES YES SIR NATIVE YES SIR READ AND WRITE THE ENGLISH LANGUAGE YES SIR HAVE YOU</p>
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68. Word apparently added later.

**RT**

**RS**

**BT**

**PS**

	<p>ANY CONSCIOUS SCRUPLES TO</p> <p>FINDING VERDICT WHERE SENTENCE MIGHT BE DEATH I BELIEVE NOT I AM NOT PERSONALLY ACQUAINTED WITH PRISONER AT BAR</p> <p>I AM NO CONNECTION WITH HIM I DO NOT KNOW ANYTHING OF THE CASE AT BAR JUST HEARD RUMORS</p> <p><i>NST[?]</i> TALKED NO MORE THAN ABOUT</p> <p>RUMORS JUST PASSING ACCOUNT SAY WHOM I HAVE TALKED WITH GOOD MANY HERE ON STREETS. I HAVE HEARD SPOKE OF IT SEVERAL TIMES</p>		<p>ANY CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE THE SENTENCE MIGHT BE DEATH</p> <p>ACQUAINTED WITH THE PRISONER AT THE BAR I JUST SAW THE MAN <i>[space]</i> ANY CONNECTION OF HIS NO SIR DO YOU KNOW ANYTHING ABOUT THE CASE AT BAR JUST HEARD THE RUMORS JUST THE SAME AS HEARD HERE <i>[space]</i> NEVER TALKED WITH ANYONE ABOUT IT ONLY JUST THE RUMORS WHOM HAVE YOU TALKED WITH I COULD NOT SAY <i>[space]</i> I HAVE TALKED WITH GOOD MANY HERE UPON THE STREETS <i>[space]</i> HAVE YOU NOT TALKED</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BEFORE I CAME HERE HAVE NOT TALKED WITH</p> <p>ANY ONE ENGAGED IN MATTER THAT I KNOW OF.</p> <p>HAVE YOU HEARD SCENES DESCRIBED ANY <i>PLACE</i>[?] THERE NO SIR HAVE YOU EVER FORMED OR EXPRESSED OPINION AS TO GUILT OR INNOCENCE OF DEFENDANT NO SIR. YOU WENT DOWN THERE YOU SAY ABOUT 11 YEARS AGO YES SIR</p> <p>ABOUT THEN. DO YOU RECALL WHERE YOU FIRST HEARD OF THIS AFFAIR I CAN NOT SAY POSITIVELY GOOD MANY YEARS AGO I SUPPOSE IT WAS <i>INDIANS</i>[?] WHEN I FIRST HEARD</p>		<p>BEFORE ABOUT IT I MIGHT HAVE TALKED ABOUT IT [<i>space</i>] <sup>[15]</sup> ANYONE THAT KNEW ANYTHING ABOUT IT NO SIR ANYONE THAT WAS IN IT NO SIR HAVE YOU HEARD THE SCENES DESCRIBED</p> <p>NO SIR HAVE YOU EVER [<i>space</i>]</p> <p>GUILT OR INNOCENCE OF THE DEFENDANT NO SIR YOU WENT DOWN THERE ABOUT 11 YEARS AGO YES SIR SOMEWHERE ABOUT 11 YEARS AGO DO YOU RECALL WHERE YOU FIRST HEARD OF IT I COULD NOT SAY IT IS SO MANY YEARS AGO [<i>space</i>] I SUPPOSED IT WAS <i>INDIANS</i> THAT IS THE WAY I HEARD</p>
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**RT**

**RS**

**BT**

**PS**

	<p>OF REPORT.</p> <p>I HEARD</p> <p>RUMOR WHITE MEN SUPPOSED TO BE ENGAGED IN IT COULD NOT FIND ANY PERSON WHO KNEW ANYTHING ABOUT IT. DO YOU THINK YOU COULD TRY CASE ON LAW AND EVIDENCE</p> <p>I THINK I COULD <sup>[24]</sup> IN THESE RUMORS AND REPORTS YOU HAVE HEARD DID YOU EVER HEAR</p> <p>PRISONER AT BAR WAS IN THE CASE OBJECTED TO BY DEFENSE BY CAREY I THINK</p>		<p>THE REPORT [space] AFTERWARDS HEARD OF ANY OTHER RUMOR I HEARD FLOATING RUMORS THAT SUPPOSED TO BE WHITE MEN ENGAGED IN IT NEVER KNEW ANY PERSON THAT KNEW ANYTHING ABOUT IT DO YOU THINK YOU COULD TRY THE CASE UPON THE LAW AND EVIDENCE AS IT WOULD BE PRESENTED HERE IN COURT YES SIR GIVE A VERDICT ACCORDING TO THE LAW AND EVIDENCE YES SIR I THINK I COULD [space] THOSE RUMORS AND REPORTS YOU HAVE HEARD DID YOU EVER HEAR THAT THE PRISONER AT THE BAR WAS IN THE CASE OBJECTED TO OVERRULED [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>YOU HAVE ASKED THAT QUESTION ABOUT THOUSAND TIMES I DO NOT KNOW BUT I HAVE HEARD SUCH RUMORS. DID YOU HEAR IT FROM ANY ONE WHO PROFESSED TO KNOW I DID NOT.</p> <p>SPICER HAVE NOT FORMED OR EXPRESSED ANY OPINION HAVE NO BIAS OR PREJUDICE.</p> <p>BY CAREY I UNDERSTAND MR. DAILY I AM YOU ARE NO CONNECTION EITHER BY MARRIAGE OR OTHERWISE</p> <p>“NOT AT ALL”. BY COURT TO CAREY ARE YOU THROUGH QUESTIONING OF JURORS. CAREY <b>&lt;TO JARVIS&gt;</b> WHERE DID YOU LIVE AT THE TIME</p>		<p>I DO NOT KNOW BUT I HAVE HEARD SUCH RUMORS DID YOU HEAR IT FROM ANYONE WHO PROFESSED TO KNOW I DID NOT [space] PASSED <b>&lt;SPICER&gt;</b></p> <p>HAVE YOU ANY BIAS PREJUDICE AGAINST THE DEFENDANT PASSED [space] I UNDERSTAND YOU THINK YOU ARE NO CONNECTION BY MARRIAGE OR OTHERWISE WITH THE DEFENDANT NO NOT AT ALL [space]</p> <p>MR. JARVIS [space] WHERE DID YOU SAY YOU LIVED AT THE TIME THIS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IN 57</p> <p>I CAME FROM ENGLAND IN FALL OF 57</p> <p>SOMETIME IN THE YEAR I DO NOT EXACTLY REMEMBER.</p> <p>I FIRST SETTLED</p> <p>IN BOSTON MASSACHUSETT S I LIVED IN STATES 4 OR 5 YEARS I CAME HERE IN 60 I</p> <p>HAVE LIVED IN THE TERRITORY EVERY SINCE LIVED IN SALT LAKE CITY</p> <p>14 YEARS THIS FALL.</p> <p><del>I HAVE</del></p> <p>I HAVE NOT ANY CONVERSATION ANY MORE THAN COMMON</p>		<p>AFFAIR OCCURRED I LIVED IN ENGLAND IN 57 WHEN DID YOU COME FROM ENGLAND IN THE FALL OF 57 WHAT TIME IN THE FALL SOMETIME DURING THE YEAR I DO NOT</p> <p>REMEMBER [space] WHERE DID YOU FIRST SETTLE WHEN YOU FIRST CAME HERE BOSTON MASSACHUSETT S</p> <p>DID NOT COME HERE UNTIL 60 I THINK [space] LIVED HERE EVERY SINCE IN THE TERRITORY YES WHERE DID YOU FIRST SETTLE SALT LAKE CITY HOW LONG IN ST. GEORGE 14 YEARS THIS FALL [space] YOU SAY MR. JARVIS YOU HAVE NEVER HAD ANY CONVERSATION ABOUT THIS THING NO SIR ONLY COMMON</p>
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**RT**

**RS**

**BT**

**PS**

	<p>RUMORS GOING AROUND NEVER TALKED WITH ANYONE WHO PROFESSED TO KNOW ANYTHING ABOUT IT NO SIR HAVE NOT FORMED OR EXPRESSED ANY OPINION.</p> <p>NATURALIZED</p> <p>BEFORE JUDGE HAWLEY IN <b>ST GEORGE</b> [space] BY PROSECUTION I BELIEVE WE HAVE NO FURTHER CHALLENGES FOR CASE. COURT TO SPICER ANY FURTHER QUESTIONS &lt;ANS NONE&gt; //EXCEPTING AS TO CHALLENGE FOR CASE <del>NO SIR</del> MR. HAYBORNE WERE YOU[?] NOT SUBPOENAED AS WITNESS IN THIS CASE I WAS SIR SINCE I ARRIVED IN</p>		<p>RUMORS HAVE YOU EVER TALKED WITH ANYONE THAT PROFESSED TO KNOW ANYTHING ABOUT IT NO SIR</p> <p>FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE NO SIR WHERE WERE YOU NATURALIZED IN ST GEORGE BEFORE JUDGE HAWLEY [space]</p> <p>[[6]]</p> <p>MR. HAYBORNE WERE YOU NOT SUBPOENAED IN THIS CASE YES SIR ONLY SINCE I ARRIVED IN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BEAVER. BY CAREY SUBPOENAS WE ISSUED FOR MR. HAYBORNE SAME TIME AS ALL WERE. WE EXPECT WANT TO USE THIS WITNESS “BY SUTHERLAND WE EXCEPT TO RULING IN REGARD TO THIS JUROR”. CLERK READ NAME OF <b>WILLIAM A CARLOW</b> SWORN BY CLERK. WHERE YOU LIVE IN BEAVER</p> <p>LIVED HERE SINCE 58 CITIZEN UNITED STATES NATIVE NATURALIZED READ AND WRITE</p> <p>NO CONNECTION WITH PRISONER AT BAR.</p> <p>ANY CONSCIOUS SCRUPLES</p>		<p>BEAVER</p> <p>—[?] PRINCIPLES WITNESSES THAT THEY EXPECT TO USE [space] COURT EXCUSED JUROR TO WHICH DEFENSE EXCEPTED (EXCEPTION</p> <p><b>W<sup>M</sup> A CARLOW</b> SWORN ON HIS VOIR DIRE [space] WHERE DO YOU LIVE BEAVER HOW LONG HAVE YOU LIVED HERE SINCE 58 CITIZEN OF THE UNITED STATES YES SIR NATIVE</p> <p>READ AND WRITE THE ENGLISH LANGUAGE YES SIR ANY CONNECTION NONE NEITHER BY MARRIAGE NOR CONSANGUINITY [space] CONSCIOUS SCRUPLES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AGAINST FINDING VERDICT [<i>space</i>]</p> <p>I HAVE EMPHATICAL IF</p> <p>EVIDENCE SHOULD SHOW MAN VIOLATED LAW ETC. COULD YOU FIND VERDICT I COULD AGAINST HIM. ARE YOU ACQUAINTED WITH PRISONER ONLY BY SIGHT. <i>ANY/NO[?]</i> THING ABOUT HIM PRISONER HAVE YOU FORMED OR EXPRESSED OR FORMED OPINION AS TO HIS GUILT OR INNOCENCE I HAVE A DECIDED OPINION. WE PASS JUROR OVER TO OTHER SIDE BY SPICER WE CHALLENGE FOR CASE THEN.</p>		<p>←AGAINST FINDING VERDICT WHERE THE PUNISHMENT MIGHT BE DEATH→ I HAVE <del>IF THE LAW</del> [<i>space</i>] IF THAT WAS THE LAW AND THE EVIDENCE SHOULD SHOW THAT A MAN HAD VIOLATED <del>THEM</del> THAT LAW</p> <p>I COULD AGAINST HIM [<i>space</i>] ARE YOU ACQUAINTED WITH THE PRISONER ONLY BY SIGHT</p> <p>HAVE YOU FORMED OR EXPRESSED</p> <p>TO HIS GUILT OR INNOCENCE I HAVE [<i>space</i>] A DECIDED OPINION [<i>space</i>] A DECIDED OPINION PASSED CHALLENGED BY DEFENSE FOR CASE</p>
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**RT**

**RS**

**BT**

**PS**

	<p><b>JOHN C DUNCAN.</b> SWORN BY CLERK. BY CAREY WHERE YOU LIVE CEDAR CITY IRON COUNTY LIVED THERE ABOUT 4 YEARS LIVED PREVIOUS TO THAT TIME IN SALT LAKE CITY.</p> <p>CITIZEN UNITED STATES NATIVE.</p> <p>READ AND WRITE.</p> <p>ANY CONSCIOUS SCRUPLES</p> <p>FINDING VERDICT WHERE PUNISHMENT MIGHT BE DEATH NO SIR</p> <p>I HAVE SEEN PRISONER ONCE BEFORE. NEVER</p>		<p>CHALLENGE SUSTAINED [space] <b>JOHN C DUNCAN</b> SWORN ON HIS VOIR DIRE [space] WHERE DO YOU LIVE CEDAR CITY IRON COUNTY HOW LONG LIVED THERE ABOUT 4 YEARS WHERE DID YOU LIVE PREVIOUS TO THAT SALT LAKE CITY [space] ARE YOU CITIZEN UNITED STATES NATIVE OR NATURALIZED NATIVE READ AND WRITE THE ENGLISH LANGUAGE YES SIR CONSCIOUS SCRUPLES AGAINST FINDING VERDICT WHERE THE PENALTY COULD BE DEATH NO SIR ARE YOU ACQUAINTED WITH THE PRISONER AT THE BAR I BELIEVE I SAW HIM ONCE BEFORE HAVE YOU EVER</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAD ANY CONVERSATION WITH HIM. NO CONNECTION TO HIM HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO INNOCENCE OR GUILT NO SIR I BELIEVE <sup>[25]</sup> NOT. IN ANOTHER REGARD TO MATTER WHEN WHAT HAVE HEARD.</p> <p>NEVER HEARD OF IT IN SALT LAKE CITY.</p> <p>LIVED SALT &amp; <del>THINK</del> I THOUGHT FROM 48 I HAVE BEEN HERE MAYBE 5 YEARS. NEVER HEARD ONLY[?]</p> <p>UNTIL I CAME DOWN</p>		<p>HAD ANY CONVERSATION WITH HIM NO SIR ANY CONNECTION WITH HIM NO SIR HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO HIS GUILT OR INNOCENCE [space] NO SIR [space] KNOW ANYTHING OF THE MATTER NO SIR ONLY WHAT I HAVE HEARD WHEN AND WERE DID YOU HEAR SINCE I HAVE BEEN DOWN IN THIS PART OF THE COUNTRY NEVER HEARD OF IT IN SALT LAKE CITY NO SIR HOW LONG DID YOU LIVE THERE I THINK IT WAS ABOUT 48 [space] YOU LIVED FROM [space] 48 UP TO [space] DID NOT KNOW THERE WAS SUCH A TRANSACTION OCCURRED IN THE TERRITORY UNTIL YOU CAME DOWN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HERE.</p> <p>HAVE TALKED WITH</p> <p>VARIOUS PERSONS NUMBER OF PERSONS THOMAS WALKER WILLIAM WALKER.</p> <p>THINK MIGHT HAVE GIVEN ME SOME ACCOUNT. AFTER TALKING WITH THESE PARTIES HEARING ALL ABOUT IT HAVE NOT YOU EXPRESSED SOME OPINION ON THE MATTER OBJECTED TO BY HOGE. BY COURT THAT IS NOT THE BEST WAY OF PUTTING QUESTION. HAVE YOU TALKED MUCH ABOUT MATTER WITH</p>		<p>HERE NO SIR [space] WHOM DID YOU TALK WITH SINCE YOU CAME DOWN HERE VARIOUS GENTLEMEN CAN YOU NAME ANY OF THEM JOHN WALKER WILLIAM <sup>[[7]]</sup> WALKER [space] THEY LIVED IN CEDAR CITY YES SIR DID NOT THEY GIVE YOU AN ACCOUNT OF THE AFFAIR THEY MIGHT HAVE GIVEN YOU AN ACCOUNT AFTER TALKING WITH THESE PERSONS AND HEARING ALL ABOUT IT FROM THEM DID NOT YOU FORM OR EXPRESS AN OPINION NO SIR [space]</p> <p>HOGE OBJECTED TO THE FORM OF THIS</p> <p>QUESTION [space] HAVE YOU TALKED MUCH ABOUT THE MATTER WITH</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WALKER I DO NOT KNOW PROBABLY 2 OR 3 TIMES</p> <p>COULD NOT SAY WHO ELSE BESIDES WALKER THAT I HAVE TALKED WITH.</p> <p>I BELIEVE WALKERS ARE WITNESSES IN CASE HAVE NOT FORMED ANY OPINION.</p> <p>I WAS THERE ABOUT SIX WEEK AGO MOUNTAIN MEADOWS DID YOU HEAR DESCRIPTION</p> <p>FROM ANY ONE. <i>GREATEST</i>[?] DESCRIPTION I HEARD ABOUT</p>		<p>THE WALKERS I DO NOT KNOW PROBABLY 2 OR 3 TIMES WHOM ELSE BESIDES WALKERS HAVE YOU TALKED WITH ABOUT IT I COULD NOT SAY I DO NOT KNOW</p> <p>THAT I EVER TALKED WITH ANYONE THAT SAID THEY WERE THERE WALKERS ARE WITNESSES IN THE CASE I BELIEVE THEY HAVE BEEN SUMMONED [space] WERE YOU EVER AT MOUNTAIN MEADOWS YES SIR SEVERAL TIMES WHEN WERE YOU THERE I WAS THERE ABOUT 6 WEEKS AGO</p> <p>DID YOU HEAR A DESCRIPTION OF WHAT OCCURRED THERE FROM ANYONE THE GREATEST DESCRIPTION I EVER HEARD OF</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IT WAS IN THE SONG.</p> <p>I DO NOT SING SONGS. SONG GAVE DESCRIPTION OF IT I DO NOT KNOW AS TO ITS TRUTH. HAVE YOU EVER TALKED WITH ANY ONE THAT WAS THERE. NOT THAT I KNOW OF.</p> <p>WHOM HAVE YOU TALKED WITH IN CEDAR CITY BESIDES WALKERS DO NOT KNOW AS I CAN TELL ANYBODY</p> <p>IT HAS BEEN OFTEN TALKED ABOUT. DO NOT KNOW AS I COULD FIX UPON ANY DEFINITE PERSON.</p> <p>YOU NOT HAVE</p>		<p>WAS THE SONG YOU SING SONGS ABOUT IT DO YOU I DO NOT YOU HAVE HEARD THE SONGS YES SIR THEY GIVE DESCRIPTION OF IT <i>DID</i>[?] IT THEY SAY SO [<i>space</i>]</p> <p>HAVE YOU EVER TALKED WITH ANYONE THAT WAS THERE AT THE SCENE NOT THAT I KNOW OF NO ONE EVER TOLD ME THEY <i>WAS</i>[?] THERE WHO HAVE YOU TALKED WITH IN CEDAR BESIDES THE WALKERS I DO NOT KNOW THAT I COULD TELL YOU PROBABLY SOME PARTIES IT IS OFTEN TALKED ABOUT I DO NOT KNOW THAT I COULD FIX IT UPON ANY DEFINITE PERSON TALKED ABOUT A GOOD DEAL YES SIR STILL YOU NEVER HAVE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAD ANY OPINION IN REGARD TO MATTER I HAVE HAD OPINION</p> <p>SUCH OCCURRENCE MIGHT HAVE TAKEN PLACE FROM FACT THERE HAS BEEN SO MUCH SAID ABOUT IT I HAVE SEEN MONUMENT WHICH HAS BEEN RAISED ON THE SUPPOSED</p> <p>PLACE. I HAVE NEVER INQUIRED ABOUT IT. DO NOT KNOW I HAVE ASKED A QUESTION.</p> <p>HAVE NOT HEARD PROOFS. BEING DOWN THERE IN MIDST OF IT HAVING SEEN IT AND BEING WITH</p>		<p>HAD ANY OPINION AT ALL UPON MATTER I HAVE HAD AN OPINION THAT THERE MIGHT HAVE BEEN SUCH AN OCCURRENCE</p> <p>TAKE PLACE FROM THE FACT THAT THERE HAS BEEN SO MUCH TALK OF THE PLACE AND I HAVE SEEN THE MONUMENT</p> <p>RAISED THERE AND SUPPOSED TO BE THE PLACE [space] DID YOU EVER INQUIRE MUCH ABOUT IT YOURSELF I DO NOT KNOW THAT I EVER ASKED A QUESTION [space] HAD NOT VERY MUCH CURIOSITY ABOUT IT NO SIR ONLY HEARD RUMORS [space] BEING RIGHT DOWN THERE IN THE MIDST OF IT AND HAVING SEEN IT BEING WITH</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PERSONS WHO PRETENDED TO KNOW SOMETHING ABOUT <i>IT</i> <i>WOULD</i>[?] BE NATURAL TO HAVE ≪ASKED≫ SOMETHING —[?] ABOUT IT. OBJECTED TO BY DEFENSE.</p> <p>COULD NOT SAY WHOM HAVE ASKED.</p> <p>DO NOT KNOW I REMEMBER PERSON WHOM I HAVE ASKED THE QUESTION. YOU CAN SWEAR YOU HAVE NO OPINION WHATEVER AS TO GUILT OR INNOCENCE OF PARTY</p> <p>AND HAVE NEVER HAD ONE YES SIR. “BY SPICER HAVE YOU ANY</p>		<p>PERSONS THAT PRETENDED TO KNOW SOMETHING ABOUT IT WOULD NOT IT BE NATURAL FOR YOU TO <del>IN</del> FORM ASK SOME QUESTION ABOUT IT OBJECTED TO [<i>space</i>] I MIGHT HAVE ASKED [<i>space</i>] AND WHOM DID YOU ASK I COULD NOT SAY IF YOU HAVE ASKED ANYONE YOU CAN PROBABLY RECALL SOMETHING ABOUT WHOM TO [<i>space</i>] I DO NOT KNOW THAT I CAN REMEMBER THE PERSON THAT I ASKED THE QUESTION YOU CAN SWEAR THAT YOU HAVE NO OPINION WHATEVER AS TO THE GUILT OR INNOCENCE OF THAT PARTY WHATEVER YES SIR AND HAVE NEVER HAD ONE YES SIR <sup>[[8]]</sup> SPICER [<i>space</i>] HAVE YOU ANY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BIAS OF MIND OR PREJUDICE IN REGARD TO MR. LEE NO SIR BY CAREY HAVE YOU ANY IN HIS FAVOR NO SIR” CAREY COURT PLEASE I SUPPOSE SAME METHOD OF CHALLENGE IS ADOPTED HERE AS IN OTHER DISTRICTS THAT IS CHALLENGING ALTERNATELY WAIVING THE CHALLENGE WOULD ONLY BE WAIVING ONE. COURT PLEASE</p> <p>THERE IS ANOTHER JUROR</p> <p>WHO HAS BEEN SUBPOENAED AS WITNESS I WISH TO HAVE MR. CHIDESTER EXCUSED.</p> <p>LIVED IN THAT COUNTY 12 YEARS MOVED FROM WHAT IS CALLED PARLEY’S PARK THERE. [space]</p>		<p>BIAS OF MIND OR PREJUDICE AGAINST MR. LEE NO SIR HAVE YOU ANY IN HIS FAVOR NO SIR [space] CAREY IF THE COURT PLEASE I SUPPOSE THE SAME METHOD OF CHALLENGE IS ADOPTED HERE AS IN THE OTHER DISTRICTS</p> <p>WAIVING ONE CHALLENGE BUT ONLY WAIVING ONE [space] I UNDERSTAND THERE IS ONE JUROR MR. CHIDESTER THAT HAS BEEN SUBPOENAED IN THE CASE I SHOULD LIKE TO HAVE MR. CHIDESTER EXCUSED [space] HOW LONG HAVE YOU LIVED IN THAT COUNTY 12 YEARS I MOVED FROM WHAT IS CALLED PARLEY’S PARK [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>SPICER WISH PROSECUTION BE AS SPARING AS COULD BE [space] BY COURT MR. CHIDESTER YOU WILL BE EXCUSED MR. SUTHERLAND WE OBJECT TO HIS <del>BEING</del> BEING EXCUSED ON ACCOUNT OF HIS NOT BEING INCAPABLE OF SERVING AS JUROR SOME EXPLANATIONS BY COURT</p> <p>BY SUTHERLAND YOUR HONOR WILL PLEASE NOTE OUR EXCEPTION. <sup>[26]</sup> BY COURT CALL ANOTHER JUROR <b>SMITH D ROGERS</b> CALLED. BY WHEDON COURT PLEASE HIS NAME IS ON THE WITNESS LIST SUBPOENAED BY</p>		<p>CHIDESTER</p> <p>EXCUSED</p> <p>OBJECTED TO OBJECTION OVERRULED EXCEPTION &lt;SUTHERLAND&gt; WE UNDERSTAND THAT HE APPEARS UPON EXAMINATION TO HAVE BEEN NOT BIASED OR DISQUALIFIED [space] DISCHARGED ON THE GROUND SIMPLY THAT THE JUROR WAS DISCHARGED SIMPLY THAT HE WAS SWORN AS A JUROR IN GOOD FAITH [space] EXCEPTION [space]</p> <p><b>SMITH D ROGERS</b> [space] WE HAD NOT SAID</p> <p>HE WAS SUBPOENAED AS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>COURT IF YOU WANT TO USE HIM <i>WON'T</i>[?]  <i>QUESTION</i>[?]. BY HOGE I WISH TO CALL THAT JUROR BACK WHICH HAS JUST BEEN DISCHARGED HOGE WHEN WERE YOU SUBPOENAED HERE AS WITNESS ABOUT 9 O'CLOCK ON THE 12TH. WHEDON TO STOKES I SENT SUBPOENA DOWN TO <i>LDS/LEEDS/LLOYDS</i>[?] AND I BELIEVE <i>BURTON</i>[?] SUBPOENAED HIM HERE. [space]</p> <p><b>S D R</b>  SWORN. &lt;BY CAREY&gt;</p> <p>LIVED PAROWAN IRON COUNTY LIVED THERE 18 OR 20 YEARS I SUPPOSE. LIVING THERE IN 57 I SUPPOSE SO.</p>		<p>A WITNESS [space] &lt;LAST WITNESS QUESTIONED BY&gt;</p> <p>HOGE WHEN WERE YOU <del>SM</del> SUBPOENAED TO APPEAR HERE AS WITNESS CALLED ON THE 12 WHEN WAS</p> <p>THIS SUBPOENA SERVED [space]</p> <p>I SENT THE SUBPOENA DOWN BY MY DEPUTY AND IT WAS RETURNED NOT <del>SERVED</del> FOUND <i>BECAUSE</i>[?]  <b>D ROGERS</b>  SWORN ON HIS VOIR DIRE [space] WHERE DO YOU LIVE PAROWAN IRON COUNTY HOW LONG THERE 18 OR 20 YEARS LIVING THERE IN 57 I SUPPOSE SO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NATIVE BORN CITIZEN</p> <p>BORN UTAH TERRITORY</p> <p>LIVED AT LEHI BEFORE SENT TO IRON COUNTY. READ AND WRITE.</p> <p>THIS IS INDICTMENT AGAINST VARIOUS PERSONS ARE YOU ANY CONNECTION OF MR. LEE'S NO SIR NEITHER BY MARRIAGE OR OTHERWISE HOW IS IT TO MR. DAME NO RELATION TO HIM.</p> <p>IT DEPENDS ON WHAT KIND OF BUSINESS BY SUTHERLAND THAT QUESTION IS IMMATERIAL COURT OVERRULED SUTHERLAND EXCEPTED.</p>		<p>[space] CITIZEN YES SIR NATIVE WHERE WERE YOU BORN BORN IN UTAH TERRITORY WHERE DID YOU LIVE BEFORE YOU WENT DOWN TO PAROWAN LEHI READ AND WRITE THE ENGLISH LANGUAGE YES SIR THIS IS AN INDICTMENT AGAINST VARIOUS PARTIES ARE YOU ANY CONNECTION OF MR. LEE'S NEITHER BY MARRIAGE OR OTHERWISE [space] HOW IS IT WITH MR. DAME NO RELATION OF HIS [space] ANY BUSINESS RELATION WITH HIM IT DEPENDS ON WHAT KIND OF BUSINESS</p> <p>OBJECTED TO AS IMMATERIAL OBJECTION OVERRULED</p> <p>EXCEPTION [space] WHAT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>IN CHURCH CAPACITY I MAY HAVE BUSINESS THAT WAY WITH HIM THAT WOULD BE ALL I AM COUNSELOR. HAVE NO CONSCIOUS SCRUPLES ABOUT FINDING VERDICT</p> <p>KNOW <i>ANYTHING</i>[?] ABOUT CASE AT BAR ONLY BY RUMORS.</p> <p>HAVE YOU FORMED OR EXPRESSED OPINION ON THESE RUMORS.</p> <p>I HAVE HEARD MORE ABOUT THESE RUMORS MORE IN <b>B</b> THAN ANY OTHER PLACE. HAVE HEARD OF SUCH AN CASE IN EXISTENCE</p>		<p>CONNECTION HAVE YOU WITH MR. DAME NO MORE THAN IN A CHURCH CAPACITY I SUPPOSE I HAVE BUSINESS THAT WAY WITH HIM <i>[space]</i></p> <p>COUNSELOR YES SIR <i>[space]</i> HAVE YOU ANY CONSCIOUS SCRUPLES WHERE THE PENALTY MIGHT BE DEATH NO SIR I BELIEVE NOT <sup><i>[19]</i></sup><sup>69</sup> KNOW ANYTHING ABOUT THE CASE AT BAR NO SIR ONLY FROM RUMORS <i>[space]</i> FROM RUMORS HAVE YOU FORMED <i>[space]</i> GUILT OR INNOCENCE † <del>HAVE</del> NO SIR <i>[space]</i> WHERE DID YOU HEAR THESE RUMORS HEARD MORE AT BEAVER <i>[space]</i></p> <p>DID YOU HEAR ANYTHING AT</p>
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69. Verso of page 9 is blank except for a very roughly drawn profile.

**RT**

**RS**

**BT**

**PS**

	<p><i>UP/TO[?]</i> PAROWAN NEVER TALKED WITH ANYONE WHO PROFESSED TO KNOW ANYTHING ABOUT IT</p> <p>I HAVE HEARD IT GOING AROUND. DO YOU THINK YOU CAN SIT HERE AND HEAR EVIDENCE AND DECIDE THIS CASE UPON THE LAW AND EVIDENCE YOU SHALL HEAR IN THIS COURT "I THINK SO" GIVE VERDICT ACCORDING TO LAW EVIDENCE "I THINK SO". WHAT ◀CIVIL▶ OFFICE DO YOU HOLD OUTSIDE OF ONE YOU SPOKEN ABOUT ONE SIR I AM ◀MEMBER▶ OF CITY COUNCIL. <i>NOT</i> <i>ONE[?]</i> OF SELECT MEN.</p> <p>HAVE YOU ANY</p>		<p>PAROWAN YES I HAVE HEARD OF THE CASE <del>TALKED WITH</del> [space] TALK WITH ANYONE [space] I COULD NOT SAY THAT I TALKED WITH ANYBODY ON THE SUBJECT BUT I HAVE HEARD IT [space] DO YOU THINK YOU CAN SIT AND HEAR THE EVIDENCE AND DECIDE THE CASE ON THE LAW AND EVIDENCE YES SIR I THINK I CAN GIVE A VERDICT ACCORDING TO THE EVIDENCE AND LAW CAN YOU YES SIR [space] WHAT CIVIL OFFICE DO YOU HOLD DOWN THERE ANY OFFICE DOWN THERE I AM A MEMBER OF THE CITY COUNCIL ◀YOU HAVE ANY▶ SELECTMEN THERE NO SIR HAVE YOU ANY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>OTHER POSITION THERE          ≪EXCEPT≫          MEMBER OF CITY COUNCIL I BELIEVE NOT.</p> <p>WENT PAROWAN TO LIVE I THINK IT WAS IN 54 I WAS SO YOUNG I CAN'T REMEMBER I WAS 22 17TH OF LAST <b>DEC.</b> ONLY HAVE MY PARENTS' SAY SO. NEVER</p> <p>CONVERSED WITH ANY ONE WHO KNEW ANYTHING ABOUT THAT. I HAVE HEARD OF THE CASE NEVER BEEN TO MOUNTAIN MEADOWS.</p> <p>BY SPICER HAVE YOU FORMED OR EXPRESSED ANY OPINION ABOUT GUILT OF MR. LEE NO SIR NO BIAS OR</p>		<p>OTHER POSITION THERE          EXCEPT AS MEMBER OF THE CITY COUNCIL I BELIEVE NOT          [space] WHEN DID YOU SAY YOU WENT TO PAROWAN TO LIVE I THINK IT WAS IN 54 I AM NOT CERTAIN I WAS SO YOUNG I CAN'T REMEMBER HOW OLD ARE YOU 22 17 LAST DECEMBER I ONLY HAVE MY PARENTS' SAY SO YOU SAY YOU NEVER HAVE CONVERSED WITH ANYONE THAT KNEW ANYTHING ABOUT IT [space] YOU HAVE HEARD OF IT YES SIR HAVE YOU EVER BEEN THERE AT MOUNTAIN MEADOWS NO SIR [space] SPICER HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OF MR. LEE NO SIR BIASED FOR OR</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PREJUDICE.</p> <p>≤CAREY≥ ONLY OBJECTION I SEE TO MR. ROGERS HE IS ONE OF THE 6[?] WITNESSES WE WANT TO USE HIM BY COURT HE WILL BE EXCUSED THEN “BY SUTHERLAND WE OBJECT TO THE DISCHARGE OF THIS JUROR” [27] <b>JAMES P TAYLOR TERRY</b> CALLED NEXT JUROR. SWORN. BY CAREY</p> <p>RESIDE KANE COUNTY</p> <p>LIVED THERE 12 YEARS</p> <p>LIVED PREVIOUS TO THAT TIME PART TIME IN SALT LAKE COUNTY <b>ROCKVILLE. I</b></p>		<p>AGAINST HIM NO SIR [space] ASK ≤THAT HE≥ BE EXCUSED ON GROUND THAT HE IS A</p> <p>WITNESS AND EXPECT TO USE HIM COURT EXCUSE HIM [space] DEFENSE EXCEPTS [space] (EXCEPTION)<sup>70</sup></p> <p><b>JAMES B P TERRY</b></p> <p>SWORN ON HIS VOIR DIRE [space] WHERE RESIDE KANE COUNTY HOW LONG HAVE YOU LIVED THERE 12 YEARS WHAT IS YOUR FULL NAME JAMES P TERRY HOW LONG IN KANE COUNTY 12 YEARS WHERE DID YOU LIVE PREVIOUS TO THAT TIME PART TIME IN SALT LAKE COUNTY ARE</p>
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70. “(EXCEPTION)” written very large in very light pencil; apparently added later.

**RT**

**RS**

**BT**

**PS**

	<p>AM CITIZEN</p> <p>BORN IN UPPER CANADA MY PARENTS WAS AMERICAN CITIZEN BORN NEW YORK STATE MOVED TO CANADA</p> <p>WHEN I WAS 7 YEARS BORN AND LIVED THERE UNTIL I WAS 7 YEARS OF AGE. HOW LONG BEFORE YOU WERE BORN DID HE GO THERE</p> <p>CAN NOT TELL EXACTLY. BY CAREY I DO NOT THINK THIS IS QUALIFIED JUROR. SEEMS FAMILY WENT THERE WENT FROM NEW YORK STATE. BY COURT I AM INCLINED TO THINK AS LONG AS PARENTS ARE CITIZENS CHILD IS CITIZEN.</p>		<p>YOU CITIZEN OF THE UNITED STATES YES SIR BORN IN NORTH CANADA MY PARENTS WERE AMERICAN CITIZENS</p> <p>MOVED TO CANADA <del>FROM</del> NEW YORK STATE <del>THEN</del> THEN BACK AGAIN WHEN I WAS 7 YEARS OLD THEN CAME WITH MY PARENTS BACK TO THE STATES [space] BEFORE I WAS BORN UNTIL I WAS 7 YEARS OLD [space] I COULD NOT TELL EXACTLY [space]</p> <p>[[10]] <del>COURT</del> [space] I AM INCLINED TO THINK THAT AS LONG AS THE PARENTS ARE CITIZENS THE CHILD IS CITIZEN [space]</p>
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**RS**

BY CAREY MY UNDERSTANDING IS SO FAR SO VERY DIFFERENT FROM COURT I LIKE TO STATE. HERE IS PARTY WHO MOVES OUT OF COUNTRY APPARENTLY WITH IDEA OF ADOPTING COUNTRY AS HIS HOME DID NOT KNOW HOW MANY YEARS BUT FROM JUROR'S OWN STATEMENT IT IS MORE THAN 7 YEARS. CITIZEN WHO HAS LEFT COUNTRY MERELY TEMPORARILY OR VISITED STILL UNDER —/MBLT[?] OF GOVERNMENT CHILDREN BORN THEN WOULD BE CITIZENS, BUT WHERE PARTY LEAVES COUNTRY [space] <THE WORD OF —[?] WITH REGARD TO NATURALIZATION> BY SUTHERLAND CHILD FOLLOWS STATE TIES OF THE PARENT CHILDREN ARE BORN ABROAD BY PARENTS WHO HAVE EITHER PERMANENTLY OR TEMPORARILY TO RESIDE IF IN THE FORMER CASE THEY RETURN AND RESUME THEIR CITIZENSHIP HAS CAUSAL REFERENCE TO MULTITUDES OF JURORS IN THIS COUNTRY HE SAYS ARE NOT CITIZENS HERE THAT IS TRUE AS TO ALL WHO HAVE NOT BEEN NATURALIZED THEY DO NOT BECOME CITIZENS HERE WITHOUT NATURALIZATION. AND IF WITHOUT NATURALIZATION HERE THEY RETURN TO THEIR MOTHER COUNTRY THEY RESUME THEIR ORIGINAL CHARACTER THERE WITHOUT ANY NATURALIZATION OF THAT THERE IS NOT THE LEAST DOUBT. RULE IN ENGLAND IS ONCE A CITIZEN ALWAYS A CITIZEN WITHOUT RESPECT TO NATURALIZATION ABROAD. WHERE CITIZEN GOES ABROAD WITHOUT REGARD HIS INTENTION WHEN HE WENT ABROAD IF HE RETURNS TO HIS NATIVE COUNTRY AND SETTLES HE RESUMES HIS ORIGINAL CHARACTER AS NATIVE BORN CITIZEN IT WOULD BE *SPECTACLE*[?] TO SAY NATIVE OF THIS COUNTRY BECAME NATURALIZED IN ORDER TO BECOME CITIZEN IT WOULD BE A CASE NOT PROVIDED FOR BY PER NATURALIZATION LAWS. HE WOULD NOT OWE ALLEGIANCE TO ANY OTHER GOVERNMENT UNLESS HE HAD BECOME NATURALIZED THERE. HERE THERE IS NO EVIDENCE AT ALL GENTLEMAN'S PARENTS HAD BECOME NATURALIZED IN CANADA OR HAD ANY FOREIGN ALLEGIANCE TO RENOUNCE WHEN THEY CAME BACK THEY CAME TO THEIR ORIGINAL STATUS AS NATIVE BORN CITIZENS. [space] BY CAREY REMARKS IN ANSWER REFERENCE TO DECISIONS MADE BY ATTORNEY GENERAL DURING LAST FEW WEEKS. MR. *PEERBENT/PIERPONT*[?] HAS JUST MADE DECISION THE CHILD IS A CITIZEN OF THE COUNTRY WHERE HE IS BORN AND ONLY BECOMES CITIZEN OF ANOTHER COUNTRY BY EITHER BECOMING NATURALIZED OR RENOUNCING THIS ALLEGIANCE TO GOVERNMENT WHERE CHILD WAS BORN HAS TO RENOUNCE THAT. <sup>[28]</sup> BY COURT HE WOULD BE CITIZEN OF THAT COUNTRY UNLESS HE RESUMED HIS RIGHTS AS AMERICAN CITIZEN IT WOULD REQUIRE NO NATURALIZATION. REFERRED TO RULE OF *PEERBENT/PIERPONT*[?] BY HOGE CASE WAS THIS THERE WAS GERMAN CAME INTO THIS COUNTRY SETTLING IN ST. LOUIS CHILD WAS BORN NATIVE IN THIS COUNTRY LIVED HERE 4 YEARS THEY WENT BACK TO PRUSSIA PUT HIM INTO PRUSSIAN ARMY CLAIMED PROTECTION OF AMERICAN GOVERNMENT. ATTORNEY GENERAL WAS TO THIS EFFECT

THAT THE CHILD'S NATIONALITY FOLLOWED THAT OF HIS PARENTS UNTIL HE ARRIVED AT 21 HE WAS TO ALL INTENTS AND PURPOSES CITIZEN OF PRUSSIA. BY BASKIN THERE IS STATUTES OF THE UNITED STATES UPON THIS SUBJECT ONLY QUESTION IS WHETHER THIS CASE COMES WITHIN IT OR NOT. BY SUTHERLAND THERE IS STATUTE HERE IF PARENTS BECOME NATURALIZED AND A CHILD BEFORE HE EXCEEDS 18 YEARS OF AGE THAT NATURALIZES CHILD. ANY OTHER RULE THAN THE ONE *WE TEND*[?] FOR WOULD MAKE HIM UNNATURALIZED. BY COURT QUESTION IS WHETHER HIS FATHER WAS CITIZEN OF UNITED STATES AT THAT TIME.

**RT**

**RS**

**BT**

**PS**

	<p>BY BASKIN WHEN DID YOUR PARENTS REMOVE TO CANADA</p> <p>I DO NOT KNOW EXACTLY I KNOW THEY REMOVED BY THEIR SAY SO AND BY MY SISTERS AND BROTHERS. BY <b>BASKIN</b> REMARKS AS TO CHILDREN BORN WITHOUT LIMITS OF UNITED STATES. [space] TO TERRY DO YOU KNOW WHETHER YOUR FATHER DURING TIME LIVED IN CANADA EXERCISED ALLEGIANCE VOTED FOR OFFICE ETC.</p> <p>I DO NOT</p>		<p>BASKIN WHEN DID YOUR PARENTS MOVE TO CANADA HOW DO YOU KNOW THEY MOVED FROM THE UNITED STATES TO CANADA <del>IF</del> <del>WAS</del> ONLY BY WHAT THEY SAID AND THAT MY BROTHERS AND SISTERS SAID.</p> <p>DO YOU KNOW WHETHER YOUR FATHER WHILE HE REMAINS</p> <p>&lt;EXERCISED THE RIGHTS OF A CITIZEN&gt; IN CANADA VOTED OR HELD OFFICE I DO NOT</p>
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**RT**

**RS**

**BT**

**PS**

	KNOW HOWEVER. [space] BY SUTHERLAND		KNOW.  SUTHERLAND
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**RS**

THIS WITNESS ONLY KNOWS BY HEAR SAY THAT HIS PARENTS FORMERLY LIVED IN NEW YORK AND THEN WENT TO CANADA. CASE WAS DISPOSED OF THIS FORENOON CHILD WHO WAS FOREIGNER BY BIRTH AS HE HEARD HIS FATHER WAS NATURALIZED IN MISSOURI HE NEVER HAD SEEN PAPERS AND KNEW NOTHING OF IT EXCEPT BY HEAR SAY YOUR HONOR SAID HE WAS EVIDENTLY A CITIZEN AND FACTS IN THAT CASE WERE LEARNED BY HEARSAY WITNESS DID NOT KNOW ANYTHING OF THE *UNUSUAL EVENTS*[?] TO MAKE HIMSELF A CITIZEN EXCEPT BY HIS FATHER. [space] BY COURT HE SAID HIS FATHER WAS CITIZEN. BY SUTHERLAND HE HAS NO PROOF OF HIS NATURALIZATION. THESE CIRCUMSTANCES BEEN ADMISSIBLE ALL HEARSAY. THERE ARE CERTAIN FACTS BEFORE US PROVED BY HEARSAY.

**RT**

**RS**

**BT**

**PS**

	WE'LL ASK THE WITNESS DID YOU AFTER MOVING BACK  YOU KNOW YOUR FATHER EXERCISED RIGHTS OF CITIZENSHIP THERE  BY BASKIN WE OBJECT TO THAT IT MIGHT HAVE BEEN THAT HE REMOVED TO THIS COUNTRY AND TOOK OUT HIS NATURALIZATION PAPERS. <BY SUTHERLAND>		<ASK YOU> IF AFTER THEY MOVED BACK TO NEW YORK YOU KNOW OF YOUR FATHER EXERCISING RIGHTS OF CITIZENSHIP VOTING & C [space] OBJECTED TO BY BASKIN [space] YES SIR
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**RT**

**RS**

**BT**

**PS**

	<p>DID HE HOLD ANY OFFICE NOT THAT I KNOW OF HE CONSIDERED HIMSELF AMERICAN CITIZEN BY COURT</p> <p>DO YOU KNOW WHETHER HE WAS NATURALIZED OR NOT</p> <p>NO SIR HE DID NOT RETURN FROM NEW YORK RETURN FROM ILLINOIS FROM MISSOURI BY SUTHERLAND IT WAS IN THOSE STATES HE EXERCISED THIS ALLEGIANCE AS CITIZEN HE CAME BACK IN 18&lt;28&gt;.</p>		<p>DID HE HOLD ANY OFFICE NOT THAT I KNOW OF [space]</p> <p>DID YOU KNOW OF HIS VOTING <del>NO</del> YES SIR</p> <p>WAS HE EVER NATURALIZED NOT THAT I KNOW OF [space] I SUPPOSED HE DID NOT NEED IT [space] DO YOU KNOW OF HIS GOING THROUGH THE CEREMONY OF BEING NATURALIZED NO SIR</p> <p>HE RETURNED TO ILLINOIS AND MISSOURI AND IT WAS IN THESE STATES THAT HE EXERCISED THE RIGHT OF CITIZEN [space] WHEN DID YOUR FATHER GO TO ST. LOUIS IN 37/38[?] [space] CAREY IT WAS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BY SUTHERLAND</p> <p>TO CAREY I OBJECT I OBJECT TO YOUR GIVING ANY EVIDENCE.</p> <p>BY SUTHERLAND THIS COURT OUGHT NOT TAKE <i>JUDGMENT</i>[?] IN THIS OF THE LAWS OF ILLINOIS AND OF ITS CONSTITUTION.</p>		<p>NOT NECESSARY TO BE NATURALIZED THEN IN MISSOURI. SUTHERLAND <del>YOU ARE NOT GIVING EVIDENCE MR. CAREY</del> I OBJECT TO YOUR GIVING EVIDENCE MR. CAREY. ARGUED BY MR. SUTHERLAND</p> <p>AND MR. BASKIN [<i>space</i>] CHALLENGED OVERRULED COURT PLEASE HE WAS NOT A CITIZEN EXCEPTION [<i>space</i>]</p>
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**RS**

MERE SUGGESTION OF THAT OUGHT NOT BRING THEM BEFORE YOUR HONOR <sup>[29]</sup> BY SUTHERLAND I WISH TO DIFFER THERE ARE CERTAIN FACTS WHICH THE LAW PERMITS PERSON TO PROVE BY HEARSAY AND THESE FACTS ARE ALLOWED TO PROVE MARRIAGE WHEN AND IF IT IS NECESSARY AND *BELONGING*[?] TO SUBJECT OF LEGITIMATE {AND}<sup>i</sup> REPUTATION IN FAMILY HAS ALWAYS BEEN SUFFICIENT PROOF OF ALL THESE FACTS. THE PLACE OF BIRTH MAY BE PROVEN BY REPUTATION IN THE FAMILY MARRIAGE MAY BE PROVEN BY REPUTATION IN THE FAMILY

AND BIRTH OF CHILD. AND IF WE REASON TESTIMONY OF THIS WITNESS IS COMPETENT. IT FREQUENTLY IS IMPOSSIBLE TO PROVE THOSE FACTS IN ANY OTHER WAY. THERE ARE IN THE NATURE OF THINGS PROOF OF THEM IS LOST AFTER LAPSE OF TIME BY DESIRE OF PARENTS AND THEREFORE WHAT IS TAKEN FOR GRANTED IN FAMILY SPOKEN OF AS TRUE. IS REGARDED AS PROPER PROOF FACT THAT THEY ARE SO TAKEN FOR GRANTED. BY BASKIN QUESTION IS WHETHER OR NOT THIS CASE COMES UP UNDER THE EXCEPTION. GENERAL RULE EXCLUDING HEARSAY IT SEEMS REASON DOESN'T APPLY AS IT DOES IN *REGARDS TO/RECORDS OF*[?] THE FAMILY. THIS JUROR SAYS WAS BORN IN CANADA REMAINED THERE 7 YEARS. COULD NOT KNOW WHERE HIS FATHER WAS BORN ONLY BY REPUTATION. " COURT ASKED FOR FIRST VOLUME OF **GREENLEAF** ON EVIDENCE." FURTHER REMARKS BY BASKIN RELATIVE TO FRANCHISE. BASKIN READ SYLLABUS ABOUT PERSON BORN ABOARD ON AN AMERICAN VESSEL. <READING> FROM FEDERAL DIGEST PAGE 17. REFERENCE TO AUTHORITY *BLKSRT/BLKSRD*[?] CIRCUIT COURT REPORTS BY SUTHERLAND THERE IS NO DOUBT CIRCUMSTANCES LAID DOWN IN THAT CASE BUT CHILD WOULD BE CITIZEN OF UNITED STATES. ~~CHILD BORN OF~~ RULE IS LAID DOWN IN GREENLEAF IF FURTHER VOLUMES WERE HERE THIS PROPOSITION IS LAID DOWN IN GREENLEAF IF I HAVE NOT MISRECOLLECTED THE BOOK IF I AM IN ERROR WITH REFERRING TO GREENLEAF "WHERE AMERICAN CITIZEN GOES ABROAD NO MATTER WITH WHAT INTENTION AND AFTERWARDS RETURNS TO THIS COUNTRY HE RETURNS TO HIS ORIGINAL RIGHTS AS A CITIZEN. BY COURT FIRST IF HE GOES NOT WITH PURPOSE OF RETURNING HE WOULD NOT BE CITIZEN SO FAR AS THIS COUNTRY IS CONCERNED. IT IS ALL AS TO WHETHER HE HAD ANY INTENTION OR NOT. BY SUTHERLAND HE WOULD NOT REQUIRE TO BE RENATURALIZED IF HE COMES BACK WITH HIM. CHILD THAT WILL *TURN/TRAIN*[?] MORE *AS MNRS*—[?] FOLLOW HIS CONDITION. ANSWERED BY BASKIN. WHEN DOES HE CEASE BECOME CITIZEN OF UNITED STATES CAUSES ARE NUMEROUS THERE WAS ATTACHMENT AGAINST FOREIGN CITIZENS IN ALL UNIFORM RULINGS WE CAN ONLY REFER TO IT UNDER THIS *HASTY*[?] TIME READ FROM *BRIGHT'S*[?] DIGEST GENERAL EVIDENCE OF EXPATRIATION IS ACTUAL IMMIGRATION. BY BISHOP WELL KNOWN AS BROTHER BASKIN STATES THE RULE WHEN HE SAYS PRESUMPTION IS WHEN MAN LEAVES GOVERNMENT AND INTENDS TO REMAIN ABSENT FOREVER IS RETURNING AFTERWARD TAKING UP HIS ABODE WITHIN GOVERNMENT UNITED STATES EXERCISE RIGHTS OF CITIZENSHIP WITHIN GOVERNMENT CLAIMING THAT RIGHT SHOWED HE LEFT THE GOVERNMENT NOT WITH THE INTENTION <sup>[30]</sup> OF REMAINING ABROAD. THEREFORE HE LOST NOTHING BY HIS DEPARTURE. {BY}<sup>i</sup> SUTHERLAND <**SUTHERLAND**> I DESIRE TO MAKE <FEW REMARKS> SOME LITTLE <I WILL READ> **2ND VOL** PAGE 49 **GREENLEAF** ACT OF FEBRUARY TENTH 1855 QUESTIONS PERSONS BORN ETC. WHOSE FATHERS WERE OR SHALL BE CITIZENS OF UNITED STATES AT TIME OF BIRTH SHALL BE DEEMED DECLARED TO BE CITIZENS OF UNITED STATES THAT APPLIES TRULY TO

THIS CASE BY COURT I DO NOT BELIEVE THAT APPLIES TO THIS CASE. THERE BEING NO EVIDENCE HIS FATHER WAS NATURALIZED ABROAD AND ACTUALLY CAME BACK AS WAS NOT NATURALIZED ABROAD THAT TENDS TO SHOW HE DID NOT INTEND RENOUNCE HIS CHARACTER AS AMERICAN CITIZEN. TO SHOW DOES APPLY I WILL READ IT AGAIN. ATTORNEY GENERAL 356-33 VICTORIA SCOTT AGAINST SCHWARTZ DECIDED IN *UNITED STATES*[?] COURT 13TH CHARGE SECOND. WILSON AGAINST MARYATT. [space] BUSINESS OF THIS JUROR'S FATHER WAS A TEMPORARY ABSENCE THERE ARE NO ACTS OF HIS PROOF SIGNIFY IN HIS DENUNCIATION OF HIS ALLEGIANCE TO THIS COUNTRY. HE RETURNED AND RESUMED EXERCISED RIGHTS AMERICAN CITIZEN THEREFORE WE SAY IS MATTER OF IF WHEN HE WENT AWAY INTENDED THAT RETURN. FORBORE TO BECOME CITIZEN OF CANADA AND DID NOT INTEND MAKE IT PLACE OF PERMANENT RESIDENCE. ~~IT IS NOT~~ OUR NATURALIZATION LAWS CONTAIN NO PROVISION FOR SUCH A MAN WHO HAD NOT BECOME NATURALIZED ABROAD WHO HAD NOT BECOME CITIZEN ABROAD WHO OWED ALLEGIANCE TO NO OTHER GOVERNMENT BY BECOMING NATURALIZED HERE. REMARKS BY BASKIN WE ARE TRYING COMPETENCY OF JUROR WHO MUST BE CITIZEN OF THE UNITE STATES THAT IS AN *AFFIRMATIVE*[?] OF QUALIFICATION CAN NOT BE MADE PER *NEGATIVE*[?]. IT AIN'T SUFFICIENT THAT THERE BE NO EVIDENCE HE HAS NOT BEEN A CITIZEN IT MUST AFFIRMATIVELY PROVE HE WAS *HE/AND*[?] IS A CITIZEN. THEY SEEK TO USE THAT EVIDENCE BY PRESUMPTIONS FROM BEGINNING TO END. BY SUTHERLAND JUROR IS CALLED UP BY REGULAR LISTING CAN ONLY BE DISCHARGED BY LEGAL CAUSE BEING MADE TO APPEAR BY CHALLENGING PARTY IN ABSENCE OF ALL PROOF HE IS ENTITLED TO SIT HERE. ANSWERED BY BASKIN THEY SEEK TO USE THAT PROOF ENTIRELY BE AS HIS KNOWING HIS FATHER WAS IN CANADA ESTABLISH HIS COMPETENCE ENTIRELY BY HEARSAY TESTIMONY. {<sup>iiii</sup>}<sup>i</sup> BY COURT GENERAL RULE NOTES HEARSAY TESTIMONY CAN NOT BE ADMITTED GENERAL RULE ~~IF WE~~ *THEREFORE/THINK IF*[?] WE ADMIT TESTIMONY THIS CASE HAD GONE TO CANADA HE WENT THERE LIVED THERE FOR 7 YEARS AS A CITIZEN THAT COUNTRY THIS PARTY WAS BORN THERE AT THAT TIME PRESUMPTION IS THAT THIS MAN WAS LIVING THERE AT LEAST JURYMAN DOES NOT KNOW ANY THING TO THE CONTRARY DOES NOT WHETHER HE WAS NATURALIZED THERE OR NOT DID NOT KNOW OF HIS EXERCISING ANY ACTS THERE ANY ALLEGIANCE OF A CITIZEN SUCH AS VOTING DID NOT KNOW ANYTHING ABOUT THAT. HE COMES BACK INTO THIS COUNTRY BRINGS SON HERE IN THIS COUNTRY WE FIND HIS FATHER VOTING HE HAS UNDERSTAND HIS FATHER NEVER CLAIMED TO HAVE BEEN NATURALIZED NEVER CLAIMED BEEN NATURALIZED UNDER ANY OF OUR LAWS IN ANY SHAPE IN FACT WE DO NOT KNOW WHETHER HE WAS VOTING AS CITIZEN OR NOT <sup>[31]71</sup> I AM INCLINED TO THINK ~~IF THE~~ IF WE FIND JUROR IS BORN ABROAD THERE OUGHT TO BE SOME TESTIMONY TO SHOW NOTWITHSTANDING HE WAS BORN ABROAD ~~HE WAS~~ HE IS

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71. Shorthand doodling on verso.

CITIZEN OF THIS COUNTRY I ~~THINK~~. AND THAT IS GOING LONG WAYS BECAUSE HIS PARENTS SAID THEY LIVED IN NEW YORK PRIOR TO THAT TIME IT WAS A FIXED FACT. I CAN NOT FIND IN GREENLEAF THAT IS ONE OF THE EXCEPTIONS IT MAY BE HOWEVER BUT I CAN'T FIND IT IF HE WAS BORN ABROAD PRESUMPTION IS HE WAS FOREIGNER *IS APPARENT/AS PARENTS*[?]. IF HE COMES HERE CLAIMS BEEN NATURALIZED. PARTY HERE STATED IT WAS UNDERSTOOD HIS FATHER WAS NATURALIZED HAD BEEN NATURALIZED STATED PLACE, ALL ABOUT IT WAS NOT PRESENT HIMSELF LEARNED THIS FROM HIS FATHERS GENTLEMAN *INTERRUPTED*[?]. ALTHOUGH IN MY STATEMENT IF QUESTION CAME UP I WOULD CONSIDER HIM CITIZEN YET I DID NOT RULE THAT WAY AND PLACED IT ONLY UPON ONE OF THE GROUNDS I GRANTED IT UPON ONE GROUND ALONE. UNDER ALL CIRCUMSTANCES IT HAS NOT BEEN SHOWN THIS PARTY IS PROPERLY A JURYMAN THAT IS ENTITLED TO BE JURYMAN. BY SUTHERLAND IF YOUR HONOR PRESUMES THAT FATHER BECAME CITIZEN OF CANADA IN ABSENCE OF ANY PROOF BY COURT NO LIVED THERE ACTED AS CITIZEN ALTHOUGH HE SAYS DID NOT SEE HIM EXERCISE RIGHT OF VOTING. BY SUTHERLAND HE LIVED IN THIS COUNTRY EXERCISED RIGHTS OF CITIZENSHIP BY COURT THAT IS ONLY HEARSAY. BY SUTHERLAND AFTER HIS RETURN HE LIVED LONGER IN THIS COUNTRY THAN DURING AS EMIGRANT IN CANADA THEREFORE PRESUMPTION ARISES HE IS CITIZEN OF THIS COUNTRY. BY COURT IF HE HAD COME HERE CLAIMING TO BE NATURALIZED CITIZEN UNDER THESE CIRCUMSTANCES I WOULD ALLOW HIM TO BE SWORN AS JUROR. PARTY ONLY SWEARS HE KNEW HIM IN CANADA. JUDGE BOREMAN TO CLERK YOU WILL CALL ANOTHER

**RT**

**RS**

**BT**

**PS**

	<p>JURYMAN [<i>space</i>]  <b>DENNIS RYAN</b>          SPICER          UNDERSTAND          YOUR HONOR          DENNIS          NOT IN TOWN.          BY BISHOP HE          WAS NOT HERE 1          O'CLOCK IF          COURT PLEASE          WE WILL HAVE          NO OBJECTIONS          IN LETTING MR.          RYAN GO UNTIL  <del>HE COMES</del>          ANOTHER JUROR          CALLED.</p>		<p><b>DENNIS RYAN</b>          [<i>space</i>]            NOT IN TOWN          BUT EXPECTED          SHORTLY [<i>space</i>]          IF THE          COURT PLEASE          WE HAVE          NO OBJECTION          TO HAVING HIM          PASSED AND            ANOTHER          CALLED AND I</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WE HAVE NO OBJECTION IN HAVING ANOTHER. BY BISHOP WE WITHDRAW OBJECTION IF PROSECUTION WISH TO BRING HIM. BY CAREY WILL CONSENT MR. RYAN TO BE PASSED FOR THE TIME. BY DEFENSE WILL NOT CONSENT TO IT NOW. BY SUTHERLAND WE CONSENT HIS BALLOT BE</p> <p>LAI D ASIDE AND ANOTHER BALLOT BE CALLED IN HIS PLACE. BY COURT SUPPOSE HE COMES WE WON'T TAKE ANY NOTICE WILL CONSIDER HIM BLANK BALLOT BISHOP WILL</p>		<p>DO NOT THINK THE PROSECUTION WILL USE HIM IF HE WERE HERE</p> <p>CONSENT WITHDRAWN. DEFENSE CONSENT THAT IT SHALL BE LAI D ASIDE AND ANOTHER JUROR DRAWN IN PLACE</p> <p>AND CONSIDER THAT IT WAS A BLANK BALLOT.</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CONSIDER HIS NAME HAS NOT BEEN TAKEN FROM THE BOX AT ALL. <sup>iiii</sup> BY BISHOP CLERK MAY THROW BACK NAME OF DENNIS RYAN IS FOUND AS HE DRAWS IT UNTIL DENNIS RYAN COMES <sup>iiii</sup> [space] <sup>[32]</sup> <del>MAN</del> <del>EM</del> PERKINS</p> <p>RESIDED ST. GEORGE</p> <p>LIVED THERE LITTLE OVER 13 YEARS LIVED IN SALT LAKE PREVIOUS TO THAT TIME I AM CITIZEN NATIVE READ AND WRITE</p> <p>NO CONSCIOUS SCRUPLES AGAINST FINDING VERDICT.</p> <p>I KNOW PRISONER AT</p>		<p>UNDERSTOOD THAT IT BE LAID BACK IN THE BOX</p> <p>BUT WHENEVER DENNIS RYAN CAST T/CH[?] BOX SHOULD IT BE RETURNED. [space] <b>ND</b> <b>PERKINS SR</b> SWORN ON HIS VOIR DIRE [space] WHERE RESIDE ST. GEORGE WASHINGTON COUNTY HOW LONG HAVE YOU LIVED THERE 13 YEARS WHERE PREVIOUS SALT LAKE CITY <sup>[[11]]</sup> ARE YOU CITIZEN YES NATIVE READ AND WRITE THE ENGLISH LANGUAGE CONSCIOUS SCRUPLES WHERE THE PENALTY MIGHT BE DEATH NO SIR [space] ACQUAINTED WITH THE PRISONER AT THE BAR I KNOW</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BAR</p> <p>NEVER HAVE BEEN INTIMATELY ACQUAINTED WITH HIM I KNOW HIM.</p> <p>NEVER LIVED SAME TOWN WITH HIM NEVER LIVED NEAR HIM.</p> <p>KNOW NOTHING OF</p> <p>CASE ONLY</p> <p>THROUGH RUMOR. BY CAREY WHERE AND WHEN DID YOU HEAR RUMORS OF IT IN SALT LAKE CITY HEARD THERE WAS SUCH A THING FROM WHAT YOU HEARD</p> <p>DID YOU FORM OR EXPRESS OPINION AS TO GUILT OR INNOCENCE AS TO</p>		<p>HIM [space] HOW LONG BEEN ACQUAINTED WITH HIM I HAVE NEVER BEEN INTIMATELY ACQUAINTED WITH HIM I KNOW HIM YOU KNOW HAVE YOU EVER LIVED IN THE SAME TOWN WITH HIM NO SIR DO YOU</p> <p>KNOW ANYTHING ABOUT THE CASE AT BAR NO SIR ONLY WHAT I HAVE HEARD RUMORS [space] WHERE AND WHEN HAVE YOU HEARD RUMORS SALT LAKE CITY BEFORE I MOVED DOWN</p> <p>FROM WHAT YOU HEARD AT THAT TIME DID YOU FORM OR EXPRESS OPINION AS TO THE GUILT OR INNOCENCE OF THE <del>ACT</del>?</p>
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**RT**

**RS**

**BT**

**PS**

	<p>PARTY CHARGED. NO SIR I HAVE NOT SINCE.</p> <p>I HAVE HEARD MEN TALK BACK AND FORTH.</p> <p>NEVER TALKED WITH</p> <p>ANY MAN SAID TO BE THERE. HAVE YOU EVER TALKED WITH ANY MAN ABOUT TRANSACTION I MAY HAVE TALKED ABOUT IT BACK AND FORTH</p> <p>I COULD NOT SAY WITH WHOM. HAVE NOT TALKED WITH ANY OF WITNESSES IN THIS MATTER NO SIR.</p> <p>DID YOU AT TIME YOU HEARD THIS CONVERSATION</p>		<p>PARTY <del>SN</del> NO SIR HAVE YOU SINCE NO SIR HAVE YOU TALKED WITH ANYBODY ABOUT THE MATTER I HAVE ONLY HEARD MEN TALK BACK AND FORTH [space] HAVE YOU EVER TALKED WITH ANY OF THEM NEVER WITH ANY MAN THAT SAID HE WAS THERE DID YOU EVER TALK WITH <del>ONE</del> ANYONE ABOUT THE TRANSACTION I MAY HAVE TALKED <del>SOME</del> ABOUT IT BACK AND FORTH [space] WITH WHOM I COULD NOT SAY HAVE YOU TALKED WITH ANY WITNESSES IN THIS MATTER NO SIR FROM THOSE VARIOUS CONVERSATION S DID YOU AT THE TIME YOU HEARD THEM</p>
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**RT**

**RS**

**BT**

**PS**

	<p>HAVE ANY OPINION</p> <p>OBJECTED TO BY HOGE. DID YOU EVER TALK WITH ANY ONE REGARD TO DEFENDANT'S CONNECTION WITH THIS AFFAIR HAVE NOT I MAY HAVE HEARD HIS NAME MENTIONED WITH IT.</p> <p>I DID NOT FORM ANY OPINION AS TO GUILT OR INNOCENCE. CAN YOU SIT HERE HEAR EVIDENCE INSTRUCTIONS OF COURT GIVE</p>		<p>HAVE ANY OPINION AS TO GUILT OR INNOCENCE OF THESE PARTIES OBJECTED TO [space] HAVE YOU EVER TALKED WITH ANYONE IN REGARD TO THE DEFENDANT JOHN D. LEE</p> <p>NO SIR NEVER HEARD HIS NAME MENTIONED WITH IT DID YOU MEAN TO SAY [space] WHILE I DO NOT KNOW I MAY HAVE HEARD HIS NAME MENTIONED HAD YOU THEN AT THE TIME YOU HEARD IT ANY OPINION AS TO HIS GUILT OR INNOCENCE NO SIR I DID NOT FORM ANY OPINION AS TO HIS GUILT OR INNOCENCE CAN YOU SIT HERE AND HEAR THE EVIDENCE INSTRUCTIONS OF THE COURT AND GIVE A</p>
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**RT**

**RS**

**BT**

**PS**

	<p>VERDICT ACCORDING TO LAW AND EVIDENCE YOU SHALL RECEIVE</p> <p>YES SIR. BY SPICER HAVE YOU ANY BIAS OF MIND OR PREJUDICE REGARD TO DEFENDANT. BY CAREY I AM NOT ANY CONNECTION HAVE</p> <p>NO BIAS IN FAVOR OF DEFENDANT. <i>iiii</i> BY COURT I BELIEVE THERE ARE 12 JURORS IN THE BOX NOW MAKE YOUR CHALLENGES. <i>iiii</i> 45 MINUTES PAST 4. BY CAREY WILL WAIVE FIRST</p> <p>CHALLENGE. COURT TO DEFENSE MAKE YOUR CHALLENGE IN THE DEFENSE. SUTHERLAND IF I UNDERSTAND</p>		<p>VERDICT ACCORDING TO THE LAW AND EVIDENCE AS YOU SHALL HEAR IT HERE AND INSTRUCTIONS OF THE COURT YES SIR [<i>space</i>] SPICER HAVE YOU ANY BIAS OR PREJUDICE AGAINST MR. LEE NO SIR PASSED [<i>space</i>] YOU HAVE ANY CONNECTION WITH MR. LEE NO SIR ANY BIAS OR PREJUDICE IN FAVOR OF MR. LEE <del>YES SIR</del> NO SIR [<i>space</i>]. [<i>space</i>] JURY FULL [<i>space</i>]</p> <p>PROSECUTION WAIVE FIRST PREEMPTORY CHALLENGE [<i>space</i>]</p> <p>SUTHERLAND IF</p>
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**RT**

**RS**

**BT**

**PS**

	<p>POSITION IN THIS COURT IS THEY WAIVED ALL CHALLENGES &lt;BY PROSECUTION NO SIR&gt; <i>IN</i> <i>THEIR[?]</i> CASE. &lt; WE MAY BE SATISFIED WITH ALL THE JURORS SITTING HERE. UNTIL WE HAVE OCCASION TO EXORCISE ANY ONE OF THEM WE MAY NOT WISH TO DO IT IF WE WERE SATISFIED WITH THE TWELVE PERSONS HERE BY COURT IF YOU SAY YOU ARE SATISFIED I WILL HAVE PERSONS SWORN. IF WE ARE SATISFIED WITH ALL THESE JURORS</p>		<p>WE WAIVE ONE CHALLENGE</p> <p>WE DO NOT PROPOSE BEING DEPRIVED OF ANY CHALLENGE WE EXPECT OUR 15 EVEN IF WE DID WAIVE SOME NOW [<i>space</i>] COURT GENERALLY ISSUED IN THAT</p>
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**RT**

**RS**

**BT**

**PS**

	<p>COURT OVERRULED IDEA OF MR. SUTHERLAND BY COURT PROSECUTION SIMPLY WAIVED THEIR FIRST CHALLENGE. COUNSEL FOR DEFENSE CONSULTED FEW MOMENTS THEY RETIRED INTO CLERK'S PRIVATE ROOM FOR THE CONSULTATION. BY SPICER IF YOUR HONOR PLEASE <i>THEN</i>[?] WE'LL CONSENT TO LET THE JURY STAND BY CAREY WE CONSENT TO THAT. <b>←JURY ACCEPTED AND EMPANNELED→</b> NAMES WERE CALLED BY THE CLERK. 5 TO 5 CLERK SWORE THEM TO TRY THE CASE OF J D LEE OF JOHN D LEE AND OTHERS IN CONNECTION</p>		<p>LIGHT AND SAVING EXCEPTION [<i>space</i>]</p> <p><i>[[12]]</i> IF YOUR HONOR</p> <p>CONSENT TO <i>DO</i>[?] THE JURY AS IT STANDS WITHOUT WAIVING ANY OBJECTIONS HERETOFORE MADE. [<i>space</i>]</p>
--	---	--	---

**RT**

**RS**

**BT**

**PS**

	<p>WITH OTHERS WHOSE NAMES HE READ.</p> <p>DEPUTY MARSHALS WERE SWORN. COURT INSTRUCTED JURY AS TO NOT PERMITTING ANYONE TALK WITH YOU UPON CASE. JURY WOULD NOT BE ALLOWED TO TALK WITH ANYONE DURING THIS INSTRUCTION FROM THE</p>		<p>JOSEPHUS WADE<sup>72</sup> J C HARRISON/HSN/H EISTER[?] DAVID ROGERS ISAAC DUFFIN JAMES C ROBINSON JOSEPH KNIGHT PAUL PRICE GEORGE F. JARVIS JOHN BREWER MILTON DAILY JOHN C DUNKIN 3 OFFICERS SWORN TO TAKE CHARGE OF JURY [space] <u>UD</u> <u>PERKINS SENIOR</u> [space] SWORN IN CHIEF [space]</p>
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72. Juror's names are written in a column.

**RT**

**RS**

**BT**

**PS**

	<p>COURT CLOCK STOPPED. <i>MARSHALL</i> <del>DESIRES ME TO SEE/SAY LEE/L[?]</del> [space]<sup>[33]</sup> COURT CONTINUED TO INSTRUCT JURYMEN. BY BISHOP I WOULD FIRST SUGGEST THEY ARE DISCHARGED FOR 2 WEEKS. BY COURT MY OWN IMPRESSION IS TO HAVE THEM DISCHARGED FOR 3 WEEKS. DEFENSE OFFERED SUGGESTION ABOUT JURORS LIVING AT DISTANCE. CAREY I THINK WE SHALL GET THROUGH IN THIS CASE IN 2 WEEKS FROM NEXT MONDAY. &lt;BY COURT&gt; GENTLEMEN OF THE JURY THOSE WHO ARE NOT ON THIS PANEL WILL BE DISCHARGED UNTIL TWO WEEKS FROM NEXT MONDAY AT TEN O’CLOCK BE HERE UNTIL THAT TIME YOU</p>		<p>OTHER JURORS DISCHARGED FOR TWO WEEKS</p> <p>FROM NEXT MONDAY AT TEN O’CLOCK. [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>[12 cont] FRIDAY MORNING, JULY 23RD 1875. COURT MET AS PER ADJOURNMENT. AT TEN O’CLOCK A.M. JUDGE BOREMAN ASKED THE DEFENSE IF THEY WERE READY. TO WHICH THEY REPLIED AFFIRMATIVELY.</p>	<p>ARE DISCHARGED. [space] <del>BY COURT THERE IS NO</del> DEFENDANT ASKED LEAVE PERMISSION WRITE HOME FEW LINES TO HIS FAMILY NO OBJECTIONS. ADJOURNED COURT UNTIL TOMORROW MORNING TEN O’CLOCK 545 PM [space]</p> <p><b>FRIDAY MORNING JULY 23/75<sup>73</sup></b> [space]</p> <p>BY BASKIN ENTRY BEEN</p> <p>SUBMITTED</p>	<p>[11 middle of page]</p> <p>THURSDAY</p> <p>COURT OPENED</p> <p>AT 10 AM A. M.</p> <p>M<sup>r</sup>. BASKIN</p>	<p>COURT ADJOURNED UNTIL TOMORROW TEN O’CLOCK [space]</p> <p>[[13]] <b>FRIDAY JULY 23RD 75</b> [space]</p> <p>BASKIN THE ENTRY MAY IT PLEASE YOUR HONOR I HAVE PUT IT IN FORM AND SUBMITTED</p>
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73. There is a “1” here which begins a second set of page numbers. They are numbered through page nine. We will continue with original page numbers.



**RT**

**RS**

**BT**

**PS**

	<p>TO OPPOSING COUNSEL</p> <p>THERE IS OBJECTION TO FORM OF IT. OBJECTION IS THIS. PROCEEDED TO READ. [space] OBJECTION IS MADE TO FIRST PORTION TO THE RECITATION UPON WHICH THIS PLEA IS FILED. MR. SUTHERLAND AROSE AND REMARKED ORDER WAS MADE <i>THAT</i>[?] YOUR HONOR PLACED OVER IT NUNC PRO TUNC BUT THE RECITAL WAS NOT DECIDED UPON AT THAT TIME IT IS THE RECITAL TO WHICH WE NOW OBJECT. AND WE OBJECT TO IT FOR PURPOSE PROPOSING AMENDMENT. RECITAL IS AND IT APPEARING</p>	<p>READ THE NUNC PRO TUNC ORDER FOR CORRECTING THE RECORD , A PORTION OF WHICH HAD BEEN OBJECTED TO. M<sup>R</sup> SOUTHERLAND <del>AROSE AND</del> STATED THE OBJECTION WHICH HE PROCEEDED TO <del>AR</del> ARGUE AT GREAT LENGTH;</p>	<p>IT TO THE OPPOSING COUNCIL AND DESIRE TO HAVE IT ENTERED THERE IS OBJECTION TO THE FORM OF IT THE FORM IS THIS “</p> <p>READ THE TEXT [space]</p> <p>JUDGE SUTHERLAND [space]</p> <p>THE ORDER —[?] ISSUED IF YOU PLEASE</p> <p>NUNC PRO TUNC BUT THE RECITAL WAS NOT DECIDED UPON AT THAT TIME IT IS THE RECITAL TO WHICH WE NOW OBJECT AND WE OBJECT TO IT FOR THE PURPOSE OF PROPOSING AN AMENDMENT THE RECITAL IS “AND IT APPEARING</p>
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**RT**

**RS**

**BT**

**PS**

	<p>THAT THE INDICTMENT IN THIS CASE WAS ON THE 24TH DAY SEPTEMBER 74 DULY RETURNED BY THE GRAND JURY IN OPEN COURT IN THE PRESENCE OF THE JUDGE. YOUR HONOR WE RESPECTFULLY DENY THAT ANY SUCH THING APPEARS. NO PROOF HAS BEEN INTRODUCED ON THIS MOTION. IF ANYTHING APPEARS NOW IT HAS APPEARED HERETOFORE. NOTHING ON THE RECORD HAS BEEN SUBMITTED TO YOUR HONOR IF THAT RECORD MADE WHEN THE INDICTMENT</p> <p>FIRST OPENED FILE SHOWS IT WAS RETURNED BY THE GRAND JURY THEN THERE IS NO</p>		<p>THAT THE INDICTMENT IN THIS CASE WAS ON THE 24 DAY OF SEPTEMBER 1874 DULY RETURNED BY THE GRAND JURY IN OPEN COURT IN THE PRESENCE OF THE JUDGE” NOW YOUR HONOR WE RESPECTFULLY DENY THAT ANY SUCH THING APPEARS NO PROOF HAS BEEN INTRODUCED ON THIS MOTION IF ANYTHING APPEARS NOW IT HAS APPEARED HERETOFORE NOTHING ON THE RECORD HAS BEEN SUBMITTED TO YOUR HONOR IF THAT RECORD MADE WHEN THE INDICTMENT <del>WAS</del> CAME FIRST OPENED THE FILES SHOWS THAT IT WAS RETURNED BY THE GRAND JURY THEN THERE IS NO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NECESSITY HAVE THIS ORDER. FURTHER BY THE RECORD AS THEN MADE IN THE JOURNAL AND THAT INDICTMENT IT DOESN'T APPEAR THAT THE INDICTMENT WAS RETURNED BY THE GRAND JURY IT DOESN'T APPEAR NOW. BECAUSE NO ADDITIONAL PROOF HAS BEEN SUBMITTED. I ASSUME WE HAVE RIGHT TO ASSUME YOUR HONOR IS NOT {WILLING}<sup>i</sup> THAT THEY COULD PLACE UPON THIS RECORD ANY GENERAL STATEMENT OF FACTS THAT COVERS MORE GROUND THAN THE TRUTH WILL WARRANT YOUR HONOR WOULD NOT DO THAT THEREFORE I OBJECT TO ANY</p>		<p>NECESSITY OF THIS ORDER IF UPON RECORD AS THEN MADE IN THE JOURNAL AND ON THE INDICTMENT IT DOES NOT APPEAR THAT THE INDICTMENT WAS RETURNED BY THE GRAND JURY IT DOESN'T APPEAR IN THE BOOKS NO ADDITIONAL PROOF HAS BEEN SUBMITTED NOW I ASSUME TO HAVE A RIGHT TO ASSUME THAT YOUR HONOR IS NOT WILLING TO PLACE UPON THIS RECORD ANY GENERAL STATEMENT OF FACTS THAT COVERS MORE GROUND THAN THE TRUTH WILL WARRANT  THEREFORE I OBJECT TO ANY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>SUCH SWEEPING STATEMENT AS THAT IT APPEARS THAT THE GRAND JURY RETURNED THIS INDICTMENT. BY ASKING FOR THIS ORDER THE PROSECUTION BY IMPLICATION AT LEAST GIVE YOUR HONOR UNDERSTAND</p> <p>RECORD MADE SEPTEMBER 74 DOES NOT SHOW THAT FACT. THAT BEING ALL THE EVIDENCE TO MAKE FACT APPEAR NOW IF IT DID NOT APPEAR THEN IT DOES NOT NOW [space] [34] ALL THAT I ASK IN CONNECTION WITH THIS RECITAL IF THEY CLAIM IT DOES APPEAR THAT THEY SHALL SPECIFY HOW THEY CLAIM IT. THAT THIS SWEEPING STATEMENT</p>		<p>SUCH AS THAT [space] AS IT APPEARS THAT THE GRAND JURY RETURNED THE INDICTMENT [space] BY ASKING FOR THIS ORDER THE PROSECUTION BY IMPLICATION AT LEAST GIVE YOUR HONOR TO UNDERSTAND THAT THE RECORD</p> <p>DOESN'T SHOW THAT FACT THAT BEING ALL THE EVIDENCE TO MAKE THE FACT APPEAR NOW IF IT DID NOT APPEAR THEN IT DOES NOT NOW [space] NOW ALL THAT I ASK IN CONNECTION WITH THIS RECITAL IS THAT IF THEY CLAIM THAT IT DOES APPEAR THAT THEY SHALL SPECIFY HOW IT APPEARS THAT THESE SWEEPING STATEMENTS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MAY DO THE DEFENDANT NO WRONG.</p> <p>NEXT RECITAL IS AND IT FURTHER APPEARING TO THE COURT THAT THE CLERK HAS FAILED TO ENTER SUCH <i>ARRAIGNMENT</i>[?] IN FULL UPON MINUTES RECORDS OF THE COURTS BLANKS HAVING BEEN LEFT IN THE ENTRY MADE</p> <p>YOUR HONOR THAT IS NOT TRUE. I HAVE COPY OF THE RECORD OF THIS COURT MADE ON THAT DAY. THIS RECITAL IMPARTS THAT THERE IS SOME ENTRY UPON THE JOURNAL RELATIVE TO THIS INDICTMENT BUT ONLY PARTIAL DEFECTIVE STATEMENT FACT IS RECORD IS</p>		<p>MAY DO THE DEFENDANT NO WRONG [<i>space</i>] AND WHERE NEXT RECITAL IS [<i>space</i>] AND IT FURTHER APPEARING TO THE COURT THAT THE CLERKS <del>HAVE</del> HAS FAILED TO ENTER [<i>space</i>]</p> <p>ENTRY MADE READ [<i>space</i>] INDEED YOUR HONOR THIS IS NOT TRUE I HAVE A COPY OF THE RECORD OF THIS COURT MADE ON THAT DAY [<i>space</i>] THIS RECITAL IMPARTS THAT THERE IS SOME ENTRY UPON THE JOURNAL <i>[[14]]</i> RELATIVE TO THIS INDICTMENT BUT ONLY A PARTIAL AND DEFECTIVE STATEMENT THE FACT IS THE RECORD IS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>ENTIRELY BLANK. THERE IS NOT REMOTEST ALLUSION TO IT. [space] INDICTMENT IN THIS CASE IS THE 31 AS MARKED NOW. <i>KLR/CLEAR</i>[?]</p> <p>SERVICE OF THAT INDICTMENT FILED SEPTEMBER <del>24</del>31<sup>2</sup> 1874 I HAVE COPY OF THE RECORD SHOWING ALL THE PROCEEDING OF THAT DAY. THURSDAY SEPTEMBER 31 1874 9 AM COURT PURSUANT TO ADJOURN WHEN THE FOLLOWING PROPOSITION WERE HAD TO WIT BILLS OF INDICTMENT PRESENTED ON THIS DAY GRAND JURY BROUGHT AND PRESENTED BILLS OF INDICTMENT AGAINST BLANK</p>		<p>ENTIRELY BLANK THERE IS NOT THE REMOTEST ALLUSION TO IT [space] THE INDICTMENT IN THIS CASE IS NUMBER 31 AS MARKED NOW [space] <i>AND/A</i>[?] <i>WRK/WORK</i>-[?] SERVICE ON THAT INDICTMENT FILED SEPTEMBER 24 1874 SIGNS HIS NAME TO IT I HAVE A COPY OF THE RECORD SHOWING ALL THE PROCEEDINGS OF THAT DAY “THURSDAY SEPTEMBER 24 1874”<sup>2</sup> [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>NUMBER 32 FOR THE CRIME OF BLANK AND NUMBERING <i>SEQUENTIARY</i>[?] OTHER INDICTMENTS WITH SUCCESSIVE AND SUBSEQUENT NUMBERS. INDICTMENT IN QUESTION IS NUMBER 31. NUMERATION IN RECORD COMMENCED AFTER 31 IN AS MUCH AS RECORD OF THIS COURT IMPARTS ABSOLUTE VERITY <i>NO OTHER/ANOTHER</i> [?] —[?] COURT NUMBER 31 WAS NOT PRESENTED AS THE RECORD STANDS. IN THE MARGIN O’ER THESE NUMBERS WITHOUT ANY OTHER WORDS TO EXPLAIN 30. THIS RECORD DOES NOT SHOW</p>		<p>THE INDICTMENT IN QUESTION IS NUMBER 31 THE NUMERATION IN THIS INDICTMENT COMMENCES WITH NUMBER 32 <del>THAT</del> NUMBER [space] AND AS THE RECORD OF THIS COURT IMPARTS ABSOLUTE VERITY</p> <p>NUMBER 31 WAS NOT PRESENTED AS THE MATTER STANDS [space] IN THE MARGIN ARE THESE NUMBERS [space] ≤WITHOUT ANY WORDS OF EXPLANATION&gt; 30 [space] THIS RECORD DON’T SHOW</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WHAT 30 STANDS FOR IT MAY BE 30 DOLLARS. 31 AND 9 TOGETHER DOES THAT MEAN</p> <p>31 IS 9 INDICTMENTS ALL TOGETHER OR NINE COUNTS GIVEN OR DOES IT MEAN <del>THERE WAS</del> THERE ARE 9 DEFENDANTS IN IT. THEN FOLLOW</p> <p>THE NUMBERS MENTIONED IN THE RECORD IN <i>POSITION/PSL</i>[?] FROM 32 TO 40. IF IT BE SAID THESE NUMBERS REFER TO INDICTMENT</p> <p>OR TO THE INDICTMENTS THAT HAVE BEEN PROPOSED TO THE GRAND JURY AND IGNORED BY THEM OR INDICTMENTS FOUND BY THEM</p>		<p>WHAT THIS STANDS FOR IT MAY BE 30 DOLLARS 3 SHEEP [space] 31 9 TOGETHER DOES THAT MEAN [space] DOES THAT MEAN 9 INDICTMENTS TOGETHER OR 9 AND [space]</p> <p>THEN FOLLOW THEN FOLLOW ] THE NUMBERS MENTIONED IN THE RECORD IN <i>POSITION/PSL</i>[?] FROM 32 TO 40 [space] INDEED IF IT BE SAID THAT THESE NUMBERS REFER TO AN INDICTMENT —[?] <i>OF</i> <i>WHICH/IT</i>[?] ARE THE INDICTMENTS THAT HAVE BEEN PROPOSED TO THE GRAND JURY AND [space] OR <i>SOME/SAME</i>[?] TO THE GRAND JURY FOUND BY THEM [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AND STILL WRITTEN BY THEM. IT CERTAINLY FAILS TO SAY 31 9 TOGETHER HAVE BEEN PRESENTED TO THIS COURT BY THE GRAND JURY [space]  <sup>[35]</sup> IT SAYS NOTHING ABOUT IT. I ¶ SEE SECOND RECITAL HERE WHICH SAYS THE CLERK HAS FAILED ENTER SUCH RETURN IN FULL CONVEYS AN ERRONEOUS IDEA.</p> <p>THE CLERK HAS FAILED TO ENTER RETURN OF ANY SUCH INDICTMENT. NOT THAT HE HAS OMITTED TO RETURN IT IN FULL. I PROPOSE TO SUBSTITUTE FOR BOTH OF THESE RECITALS WHAT I REGARD AS A DETAILED STATEMENT OF WHAT DOES APPEAR AND NO</p>		<p>≤IT CERTAINLY DON'T SAY THAT NUMBER 31 WAS PRESENTED≥  [space]</p> <p>IT SAYS NOTHING ABOUT IT [space]  2ND RECITAL IT SAYS THAT THE CLERK HAS FAILED TO ENTER SUCH RETURN IN FULL CONVEYS AN ERRONEOUS IDEA [space] THE RECITAL SHOULD BE THE CLERK HAS FAILED TO ENTER ANY SUCH INDICTMENT NOT THAT [space]</p> <p>IN FULL NOW I PROPOSE TO SUBSTITUTE FOR BOTH THOSE OF THOSE RECITALS WHAT I REGARD AS A DETAILED STATEMENT OF WHAT DOES APPEAR AND NO</p>
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**RT**

**RS**

**BT**

**PS**

	<p>MORE WE ARE WILLING RECORD SHOULD SHOW JUST WHAT DOES APPEAR AND ALL SOURCES OF INFORMATION UPON WHICH THIS NUNC PRO TUNC ORDER IS FOUND STRIKE OUT LINES 11 TO 23 INCLUSIVE.</p> <p>IT APPEARING THAT THERE IS NO RECORD OF THE PRESENTATION TO THE COURT BY GRAND JURY</p> <p>ON FILE IN THIS CASE EXCEPT THAT SAID INDICTMENT WAS SERVED BY CLERK OF THIS COURT SEPTEMBER 31 1874 MEMORANDUM APPEARS</p> <p>31 9</p>		<p>MORE WE ARE WILLING THAT THE RECORD SHOULD SHOW JUST WHAT DOES APPEAR AND ALL THE SOURCES OF INFORMATION UPON WHICH [space]</p> <p>I PROPOSE STRIKE OUT LINES 11 TO 23 INCLUSIVE BEING BOTH OF THESE RECITALS AND INSERT [space] "IT APPEARING THAT THERE IS NO RECORD OF THE PRESENTATION TO THE COURT BY THE GRAND JURY OF THE INDICTMENTS WHICH APPLY IN THIS CASE EXCEPT THAT SAID INDICTMENT WAS SERVED BY THE CLERK OF THIS <sup>[[15]]</sup> COURT TO HAVE BEEN FILED AND MEMORANDUM APPEARS IN THE MARGIN OF THE [space] 31 9</p>
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**RT**

**RS**

**BT**

**PS**

	<p>TOGETHER THEREFORE ON THE RECOLLECTION OF THE JUDGE OF THIS COURT TO THE FILING THE MEMORANDUM AFORESAID IT IS ORDERED. ARE THERE ANY OTHER SOURCES OF INFORMATION <i>DOES IT</i>[?] APPEAR IN ANY OTHER WAY BY INSPECTION OF THIS RECORD TO</p> <p>YOUR HONOR'S RECOLLECTION IT DOES NOT. I ASK THAT THAT RECITAL BE SUBSTITUTED FOR THEM WHICH COUNSEL HAS PREPARED. [space] BY BASKIN AS TO POINT OBJECTION GENTLEMAN MAKES IT IS SIMPLY QUIBBLE ON WORDS I HAVE SINCE I HEARD</p>	<p>HE CONCLUDED BY PROPOSING A SUBSTITUTE IN LIEU OF OF THE PORTION OF THE DOCUMENT OBJECTED TO.</p> <p><b>M<sup>R</sup></b> BASKIN CONTENDED THAT <b>M<sup>R</sup></b> SOUTHERLAND'S OBJECTION, WAS A MERE QUIBBLE ON WORDS. HE , HOWEVER, CONSENTED TO</p>	<p>TOGETHER THEREFORE TO THE RECOLLECTION OF THE JUDGE OF THIS COURT ON THE FILING OF MEMO AFORESAID IT IS ORDERED ARE THERE ANY OTHER SOURCES OF INFORMATION DOES IT APPEAR IN ANY OTHER WAY AND IS THAT <i>CERTIFY</i>[?] <i>TO/BUT</i>[?] <i>FILE/FL</i>[?] AND YOUR HONOR'S RECOLLECTION IT DOES NOT [space] I ASK THAT THAT RECITAL BE SUBSTITUTED FOR THE RECITAL WHICH COUNSEL HAS PREPARED. [space] BASKIN &lt;WHO SIGNED <i>ON</i> <i>THE</i>[?]&gt;</p> <p>IT IS SIMPLY A QUIBBLE ON WORDS [space] I HAVE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>GENTLEMAN MAKE HIS REMARKS MADE THIS INTERPOLATION IN THE ENTRY</p> <p>AND OF IT BEING WITHIN KNOWLEDGE OF COURT PERSONAL KNOWLEDGE OF COURT</p> <p>INDICTMENT WAS PRESENTED IT BEING WITHIN PERSONAL KNOWLEDGE OF COURT INDICTMENT WAS FOUND ETC.. YOUR HONOR DID STATE YOU REMEMBERED FACTS AND CIRCUMSTANCE S AND I SUPPOSE IT IS IN YOUR MEMORY. AS TO OTHER POINT IT IS SIMPLY POINT WITHOUT ANY BEARING</p>	<p>A MODIFICATION BEING MADE, WHICH HE INSISTED WAS MORE LAWYERLIKE THAN M<sup>R</sup> SOUTHERLANDS AMENDMENT.</p>	<p>MADE THIS INTERPOLATION [space] AND/SHOULD[?] MOTION MORE WHOLE[?] &amp; AND IT BEING WITHIN THE</p> <p>≪PERSONAL≫ KNOWLEDGE OF THE COURT THAT SAID INDICTMENT WAS AND SAID[?] HE HAD &amp;€ [space]</p> <p>BECAUSE YOUR HONOR DID STATE THAT YOU REMEMBERED THE FACTS AND CIRCUMSTANCE S AND I SUPPOSE IT APPEARS UPON YOUR MINUTES TO/BUT[?] TKRT[?] [space] 2 [space] IT IS SIMPLY A POINT WITHOUT ANY BEARING CAN'T POSSIBLY HAVE ANY</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BECAUSE WHEN THIS CASE GOES UP IF THERE IS ANY <i>DOUBTS/POINTS</i>[?] ]—/<i>VALID</i>[?] IT CARRIES RECORDS UP WITH IT. RECORDS MUST APPEAR SUSTAINED AS IT GOES BY COURT BELOW THEREFORE RETURN GRAND JURY ON THAT DAY SPEAKS FOR ITSELF. IT IS NOT NECESSARY TO GIVE LONG LUMBERING ORDER. FIRST RETURN ON THAT DAY RECORDS WHEN THEY GO UP WILL SHOW IT. COURT WILL REVIEW TO SEE IF THERE BLANK ENTRY ON THAT FACT THIS ENTRY</p>	<p><b>M<sup>R</sup></b> SUTHERLAND:</p>	<p>BEARING ON THE INTEREST OF THE PRISONERS TO SUBSTANTIATE THOSE IDEAS THAT THE JOINT MEMORANDUM DOES.</p> <p>THEREFORE THE RETURN OF THE GRAND JURY</p> <p><i>SHOWN</i>[?] FOR ITSELF. [<i>space</i>]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>DOES WHAT GENTLEMAN CLAIMS AND IT CERTAINLY IS <i>NO/IN/ANY</i>[?] MORE LAWYERLIKE FORM HIS QUIBBLE IS WITHOUT FORM.  <i>[space]</i><sup>[36]</sup>          BASKIN ONLY IMPLICATION IS IT APPEARING WITHIN PERSONAL KNOWLEDGE OF COURT I JUST INTERPOLATED IT THERE. STRIKE OUT WORD APPEARING AND INSERT OF BEING WITHIN KNOWLEDGE OF THE COURT BY SUTHERLAND I THINK HE HAS OBIATED MY OBJECTION MATERIALLY. GOOD SENSE MAY <i>APPROBATE</i>[?] THIS IT IS A MORE CORRECT FORM AND IT IS NOW ACCEPTABLE.  <i>[space]</i> <b>BY</b> COURT</p>	<p>SINCE THE GENTLEMAN SAYS IT IS MORE LAWYERLIKE MY MODESTY PREVENTS ME FROM SAYING IT IS NOT.</p> <p>I THINK HOWEVER HE HAS OBIATED MY OBJECTION.</p>	<p>SUTHERLAND  <i>[space]</i> I THINK HE HAS OBIATED MY OBJECTION DULY AND FULLY SATISFIED ME  <i>[space]</i></p>
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**RT**

**RS**

**BT**

**PS**

<p>CLERK WILKINS THEN CALLED THE FOLLOWING JURORS, WHO WERE SWORN ON THEIR VOIR DIRE AND EXAMINED AS TO THEIR COMPETENCY.</p>	<p>LET THE ENTRY BE MADE.</p> <p>NAMES OF JURORS CALLED BY CLERK ALL PRESENT.</p>	<p>THE ROLL OF THE JURY WAS CALLED , ALL BEING PRESENT. THE FOLLOWING ARE THE NAMES, RESIDENCES AND <b>RELIGIOUS SOCIAL</b> DISTINCTIONS OF THE <del>PANNEL:</del> <b>SEVERAL MEMBERS.</b> <sup>[12]</sup> MORMONS. NAME. RESIDENCE. DAVID ROGERS...WASHI NGTON. ISAAC DUFFIN ...TOKER. GEORGE F. JARVIS...ST. GEORGE. JAMES C. ROBINSON ...PARAGOONAH. MILTON DALEY... HARRISBURG. JOHN C. DUNCAM ... CEDAR CITY. JOSEPH KNIGHT...ST. GEORGE. UTE PERKINS,SMR... ST. GEORGE. GENTILES.</p>	<p>JURY CALLED ALL PRESENT</p>
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**RT**

**RS**

**BT**

**PS**

<p>JOSEPHUS WADE, L.C. HIESTER, DAVID ROGERS, ISAAC DUFFIN, CHRISTOPHER J. ARTHUR, JOHN B. CHIDESTER, LOUIS HERTINGER, JAMES C. ROBINSON, HENRY HALLING, G.W. CROUCH, FRED. J. HALLER, JAMES HUNTER, JAMES KNIGHT, ELIJAH ELMORE, PAUL PRICE, GEORGE S F. JARVIS, WILLIAM THOMPSON SR. , ROBERT HAYBORNE, JAMES A. THOMPSON, JAMES GIBSON, JOHN BREWER. THE FOLLOWING WERE EXCUSED. LEWIS HURTINGER, FRED. J. HALLER, JAMES C. ROBINSON, GEORGE W. CROUCH, JAMES GIBSON, JAMES HUNTER, WILLIAM A.</p>		<p>JOSEPHUS WADE...PIUTE COUNTY. J. C. HEISTER ...PIUTE COUNTY.</p> <p>PAUL PRICE ...PIUTE COUNTY</p> <p>JOHN BREWER ...PIUTE COUNTY.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THOMPSON, SR. JAMES A. HUNT, JOHN BREWER, JAMES KNIGHT, HENRY HOLLING. COURT TOOK A [13] RECESS TILL TWO O’CLOCK P.M.<sup>74</sup></p>		<p>JOHND. LEE THE DEFENDANT WAS CALLED. HE WAS SITTING AT THE <del>S-AE</del> TABLE WITH HIS ATTORNEYS, BETWEEN JUDGES SOUTHERLAND AND SPICER, <del>OF</del> &lt;OF&gt; HIS COUNSEL , AND ANSWERED “HERE.”</p>	<p>PRISONER CALLED</p>
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74. Pages 14–21 are the Brigham Young deposition and George A. Smith affidavit. See originals in *MMMCLP*, chapter 36, “Documents Introduced into Evidence for John D. Lee’s Second Trial.”