

## John D. Lee, First Trial

John Hamilton Sr., John Hamilton Jr.,  
Richard S. Robinson, Samuel Jackson Sr., and  
John Macfarlane Testimonies

**RT**

**RS**

**BT**

**PS**

<p>[Bk 4 468 cont.]</p> <p>JOHN HAMILTON, SENIOR SWORN FOR THE DEFENSE.</p> <p>Q. WHERE DID YOU LIVE IN 1857 ? A. AT WHAT WAS CALLED HAMILTON'S FORT. Q. WHERE WAS THAT WITH REFERENCE TO CEDAR CITY ? A. SOMETIMES IT WAS CALLED SIX MILES SOMETIMES SEVEN.</p> <p>Q. FROM CEDAR CITY ? A. YES.</p> <p>Q. IN WHAT DIRECTION ?</p> <p>[469]</p> <p>BASKIN: HAVE YOU BEEN IN COURT</p> <p>AND HEARD THE</p>	<p>[Bk 9 13] <b>1<sup>ST</sup> LEE</b>  <b>TRIAL.</b> [space]  <b>JOHN HAMILTON SENR.</b> I HAVE BEEN SWORN [space]</p> <p>{Q}<sup>i</sup> WHERE DID YOU LIVE IN 1857 {A}<sup>i</sup> WHAT WAS CALLED HAMILTON'S FORT. {Q}<sup>i</sup> WHERE WAS THAT WITH REFERENCE TO CEDAR CITY {A}<sup>i</sup> SOMETIMES IT WAS CALLED 6 MILES SOMETIMES 7.</p> <p>SOUTH {Q}<sup>i</sup> FROM CEDAR CITY {A}<sup>i</sup> YES.</p> <p>{Q}<sup>i</sup> IN WHAT DIRECTION [space] BASKIN {Q}<sup>i</sup> HAVE YOU BEEN IN COURT ≪DURING THIS≫ COURT {TRIAL AND}<sup>i</sup> HEARD {THE}<sup>i</sup></p>	<p>[Bk 5 308 cont.]</p> <p>JOHN HAMILTON, SNR. BEING CALLED AS A WITNESS ON THE PART OF THE DEFENSE , WAS EXAMINED AS FOLLOWS BY J.G. SUTHERLAND: Q. WHERE DI D YOU LIVE IN I857? A. IN WHAT WS CALLED HAMILTON'S FFORT. Q. WHERE WAS THAT WITH REFERENCE TO CEDAR CITY? A. SOMETIMES IT WAS CALLED SIX MILES AN D SOMETIMES SEVEN. <sup>[309]</sup></p> <p>Q. SOUTH FROM CEDAR CITY? A. YES .</p> <p>Q. IN WHAT DIRECTION? <b>SOUTHERLAND.</b> <sup>390</sup> BASKIN: HAVE YOU BEEN IN COURT DURING THIS TRIAL AND HEARD THE</p>	<p>[Patterson Shorthand is not extant for this material.]</p>
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390. "SOUTHERLAND" is faint, possibly erased.

**RT**

**RS**

**BT**

**PS**

<p>TESTIMONY          HERE ? A. NO          SIR. Q. IN WHAT          DIRECTION          FROM CEDAR          CITY WAS FORT          HAMILTON ? A.          SOUTH FROM          CEDAR. Q.          DID YOU HEAR          IN 1857 OF THE          SLAUGHTER          OF A PARTY OF          EMIGRANTS          AT THE          MOUNTAIN          MEADOWS ? A.          NOT TILL          AFTER.          HEARD MORE          SINCE I CAME          HERE THAN I          HAVE HEARD IN          SOME TIME. Q.          YOU HEARD OF          A          CIRCUMSTANCE          OF THAT KIND ?          A. NOT TILL          AFTER. Q. BUT          YOU HAVE          OFTEN HEARD OF          IT SINCE THE          TRANSACTION ?          A. YES. Q. HOW          SOON AFTER ?          A. I COULD NOT          TELL YOU — IT          HAS BEEN SO          LONG AGO          FOR A          MAN OF MY          YEARS TO          RECOLLECT. Q.</p>	<p>TESTIMONY          HERE NO {A}<sup>i</sup>          SIR. {Q}<sup>i</sup>IN WHAT          DIRECTION          FROM CEDAR          CITY WAS FORT          HAMILTON ? {A}<sup>i</sup>          SOUTH FROM          CEDAR. {Q}<sup>i</sup>          DID YOU HEAR          IN 1857 OF THE          SLAUGHTER          OF A PARTY OF          EMIGRANTS          AT          MOUNTAIN          MEADOWS {A}<sup>i</sup>          NOT TILL          AFTER,          HEARD MORE          SINCE I CAME          HERE THAN I          HAVE HEARD IN          SOME TIME. {Q}<sup>i</sup>          YOU HEARD OF          A          CIRCUMSTANCE          AT THAT TIME          {A}<sup>i</sup>NOT TILL          AFTER QTHE  <i>CONFESSIO</i>N[?]          YOU DID HEAR          OF IT AFTER          TRANSACTION          {A}<sup>i</sup>YES. {Q}<sup>i</sup>HOW          SOON AFTER          A I COULD NOT          TELL YOU, IT          HAS BEEN SO          LONG AGO , TOO          FOR A          MAN OF MY          YEARS TO          RECOLLECT. Q</p>	<p>TESTIMONY          HERE? A. NO,          SIR. Q. IN WHAT          DIRECTION          FROM CEDAR          CITY WAS FORT          HAMILTON? A.          A. SOUTH FROM          CEDAR. Q.          DIDYOU HEAR          IN I857, OF THE          SLAUGHTER          OF A PARTY OF          EMIGRANTS<del>SW</del>          AT THE          MOUNTAIN          MEADOWS? A.          NOT TILL          AFTER. Q.          HEARD MORE          SINCE I CAME          HERE THAN I          EVER HEARD IN          SOME TIME. Q.          YOU HEARD OF          THE          CIRCUMSTANCE          AT THE TIME? .          A. NOT TILL          AFTER. Q. BUT I          ASK YOU IF          YOU DID HEAR          OF IT AFTER THE          TRANSACTION?          A. YES . Q. HOW          SOON AFTER?          A. I COULD NOT          TELL YOU IT          HASE BEEN SO          LONG AGO, IT IS          HARD FOR A          MAN OF MY          YEARS TO          RECOLLECT. Q.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>DO YOU REMEMBER SEEING ANY INDIANS THERE AT ANY TIME AT YOUR PLACE A. NOT BEFORE THE MASSACRE. I HEARD ABOUT THE _____ Q. I AM INQUIRING BEFORE THE MASSACRE,OR  IMMEDIATELY AFTERWARDS ?  A. THE SUNDAY MORNING AFTER WHAT WAS SAID TO BE THE MASSACRE,TWO OR THREE DAYS—I CAN'T STATE EXACTLY,IT WAS ON THE SUNDAY MORNING—I WAS GETTING READY FOR GOING TO CEDAR—A GENTLEMAN TOLD THE THING AS IT IS. I THERE HEARD,BUT I CANNOT STATE.</p>	<p>DO YOU REMEMBER SEEING ANY INDIANS THERE AT ANY TIME , AT YOUR PLACE [space] <del>YES</del> I A NOT BEFORE THE MASSACRE I HEARD ABOUT THE {—}<sup>i</sup> {Q}<sup>i</sup>DEFENSE I AM NOT INQUIRING BEFORE MASSACRE [space] IMMEDIATELY AFTERWARDS [space] {A}<sup>i</sup>SUNDAY MORNING AFTER WHAT WAS SAID TO BE THE MASSACRE = TWO OR THREE DAYS I CAN'T TELL EXACTLY, IT WAS ON A SUNDAY MORNING I WAS GETTING READY FOR GOING TO CEDAR, AND GENTLEMAN LET ME TELL THE THING AS IT IS ; I THERE HEARD I CAN'T TELL BUT ON</p>	<p>DO YOU REMEMBER SEEING ANY INDIANS THERE AT ANY <del>A</del> TIME AT YOUR PLACE? A. NOT BEFORE THE MASSACRE; I HEQARD ABOUT THE — Q. I AM NOT INQUIRING BEFORE THE MASSACRE, BUT  IMMEDIATELY AFTERWARDS?  A. ON SUNDAY MORNING AFTER—WHAT WAS SAID TO BE THE MASSACRE, TWO OR THREE DAYS AFTER, I CANT STATE EXACTLY, BUT IT WAS ON A SUNDAY MORNING, I WAS GETTING READY TO GO TO CEDAR—AND GENTLEMEN, LET ME TELL THE THING AS IT IS: I THERE HEARD ,I CAN'T TELL, BUT ON</p>	
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**RT****RS****BT****PS**

<p>HE SEEN THAT THERE WAS INDIANS AND STOCK IN MY FIELD.</p> <p>I RUSHED UP AND WENT OUT TO DRIVE THEM OFF, BUT WHEN I WENT IN I SEEN THE HORSES THAT WAS THERE ,AND I NEVER SPOKE TO THE INDIANS. IF YOU HAVE QUESTIONS TO ASK _____<sup>[470]</sup></p> <p>Q. DESCRIBE WHAT YOU SAW ?</p> <p>A. WELL, I SEEN BLANKETS, QUILTS, COOKING UTENSILS AND WOMEN'S SADDLES, MEN'S SADDLES AND AMOUNT OF CATTLE. I COULD NOT TELL HOW MANY. DURING THE TIME I WAS</p>	<p>SUNDAY THAT THERE WAS INDIANS AND STOCK IN MY FIELD AND &lt;WHICH WAS CLOSE BY WHERE WE LIVED&gt;, I RUSHED UP AND WENT TO DRIVE THEM OFF, BUT WHEN I WENT IN I SEEN THE HORSES THAT WAS THERE TOO AND I NEVER SPOKE TO ANYONE IF YOU HAVE QUESTIONS TO ASK {Q}<sup>i</sup> DESCRIBE WHAT YOU SAW [<i>space</i>] {A}<sup>i</sup> WELL I SEEN BLANKETS, QUILTS, COOKING UTENSILS , AND WOMEN'S SADDLES MEN'S SADDLES, HORSES AN AMOUNT OF CATTLE , I COULD NOT STATE HOW MANY DURING THE TIME I WAS</p>	<p>SUNDAY, <del>THAT</del> THERE WERE INDIANS AND STOCK IN M Y FIELD WHICH WAS CLOSE BY WH ERE WE LIVED, AND I RUCSHED UP AND WENT OUT TO DRIVE THEM OFF; BUT WHEN I WENT IN I SEEN THE HORSES THAT WAS THERE, AND I NEVER SPOKE ØTO ANY ONE. NOW, IF YOU HAVE QUESTIONS TO ASK _____</p> <p>Q. DESCRIBE WHAT YOU SAW?</p> <p>A. WELL, I SEEN BLANKETS, QUILTS, COOKING UTENSILS, AND WOMEN'S SADDLES AND MEN'S SADDLES, HORSES AND AN AMOUNT OF CATTLE, I COULDN'T TELL HOW MANY<sup>[310]</sup> DURING THE TIME I WAS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THERE WAS TWO — HAD THE CATTLE SHOT DOWN. Q. HOW MANY CATTLE WERE SHOT DOWN ? A. TWO HEAD — TWO GUNS WENT OFF. Q. ABOUT HOW MANY INDIANS WERE THERE ? A. I COULD NOT ANSWER THAT QUESTION CORRECTLY,BUT I WOULD SUPPOSE— WELL I WOULD SUPPOSE THERE WAS MORE THAN FIFTY—I NEVER SAW——</p> <p>Q. WHAT SORT OF A FIELD WAS IT THEY WENT INTO ? A. IT WAS MY FIELD <del>K</del>—WHERE MY GRAIN WAS. THE SMALL GRAIN WAS CUT AND THE CORN AND POTATOES</p> <p>REMAINED. Q. WAS THERE ANYTHING</p>	<p>THERE , THERE WAS TWO HEAD OF CATTLE SHOT DOWN {Q}^i HOW MANY CATTLE SHOT DOWN {A}^i TWO HEAD , TWO GUNS WENT OFF. {Q}^i ABOUT HOW MANY INDIANS WERE THERE {A}^i I COULD NOT ANSWER THAT QUESTION CORRECTLY BUT I WOULD SUPPOSE = WELL I WOULD SUPPOSE THERE WAS MORE THAN 50 , I NEVER WAS VERY CLOSE TO THEM. {Q}^i WHAT SORT OF FIELD WAS THEY WENT INTO {A}^i IT WAS MY FIELD WHERE MY GRAIN WAS , THE SMALL GRAIN WAS CUT AND THE CORN <sup>[14]</sup> AND POTATOES</p> <p>REMAINED. {Q}^i WAS THERE ANYTHING</p>	<p>THERE, THERE WAS TWO HEAD OF CATTLE SHOT DOWN. Q. HOW MANY CATTLE SHOT DOWN? A. TWO HEAD; TWO GUNS WENT OFF. Q. ABOUT HOW MANY INDIANS WERE THERE? A I COULDNOT ANSWER- ANSWER THAT QUESTION CORRECTLY, BUT I WOULD SUPPOSE— WELL, I WOULD SUPPOSE THE RE WERE MORE <del>TAH</del> THAN FIFTY. I NEVER WAS VERY CLOSE TO THEM? A Q. WHAT SORT OF A FIELD WAS THAT TH EY WENT INTO? A. IT WAS MY FIELD WHERE MY GRAIN WAS; THE SMAPLL GRAIN WAS CUT AND THE CORN AND PORTATOES <del>WERE</del> REMAINED. Q. WAS THERE ANYTHING</p>	
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**RT****RS****BT****PS**

<p>ABOUT THE QUILTS AND</p> <p>DRESSES THAT YOU CAN SPEAK OF — CAN YOU GIVE ANY MORE DESCRIPTION OF THEM ? A. THERE WAS BLOODY CLOTHES—BOTH MENS AND WOMEN’S GARMENTS WITH THE PILE. Q. WERE THERE ANY STAINS UPON ANY OF THEM, IF SO DESCRIBE THEM ? A. I COULD NOT. Q. DID YOU SAY THEY WERE BLOODY CLOTHES — GIVE SOME IDEA OF THE QUANTITY OF THE CLOTHING ;? A. I COULD NOT DO THAT — I COULD NOT TELL,BUT THERE WAS A GREAT MANY. Q. HOW WERE THEY — HOW DID YOU SEE THEM ON THE FIELD — IN PILES,</p>	<p>ABOUT THE QUILTS</p> <p>DRESSES , THAT YOU CAN SPEAK OF = ANY MORE DESCRIPTION OF THEM {Q}^i THEY WAS BLOODY CLOTHES , BOTH MENS AND WOMEN’S GARMENTS ON A PILE ~ {Q}^i WERE THERE ANY STAINS UPON ANY OF THEM {IF SO}^i DESCRIBE THEM {A}^i I COULD NOT. {Q}^i DID YOU SEE THERE WERE BLOODY CLOTHES, IF SO GIVE SOME IDEA OF QUANTITY OF CLOTHING {A}^i I COULD NOT DO THAT {A}^i I COULD NOT TELL, BUT THERE WAS A GREAT MANY. Q.HOW WERE THEY , HOW DID YOU SEE THEM ON THE FIELD IN PILES,</p>	<p>ABOUT THE QUILTS, BLANKETS, CLOTHES OR DRESSES THAT YOU CAN SPEAK OF, ANY REMARKABLE DESCRIPTION OF THEM? A. THEY WERE BLOODY CLOTHES, BOTH MEN’S AND WOMESN’S GARMENTS IN A PILE. Q. WERE THERE ANY STAINS UPON ANY OFTHEM, IF SO DESCRIBE THEM? A. I COULD NOT. Q. DID YOU SEE THEY WERE BLOODY CLOTHES? IF SO GIVE SOME IDEA OF THE QUANTITY OF THE CLOTHING? A. I COULD NOT DO THAT, I COULD NOT TELL, BUT THERE WAS A GREAT MANY . Q. HOW WERE THEY PLACED OR LYING? HOW DIDYOU SEE THEM ON THE FIELDS? IN PILES?, <b>OR</b></p>	
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**RT**

**RS**

**BT**

**PS**

<p>SCATTERED AROUND ON THE GROUND ? A. BLOODY CLOTHING WAS PILED UP AND KIND OF OTHERS STREWED OVER THEM. Q. HOW LARGE A PILE ? [471] A. I SUPPOSE IT WAS THREE FEET HIGH. Q. YOU STATED YOU DIDN'T DRIVE THEM OFF— WHY DIDN'T YOU DRIVE THEM OFF— I WANT YOU TO DESCRIBE THE INDIANS,IN RESPECT TO THE DISPOSITION THEY MANIFESTED AT THAT TIME TOWARDS YOU ? A. YOU MAY GUESS THAT, WHEN I WAS AFRAID OF SPEAKING TO THEM. I NEVER WAS AFRAID TO SPEAK TO A WHITE MAN IN MY LIFE,BUT I</p>	<p>SCATTERED AROUND ON {THE}<sup>i</sup> GROUND ^THE BLOODY CLOTHING WAS PILED UP {AND}<sup>i</sup> KIND {OF}<sup>i</sup> <i>OTHERS</i>[?] STREWED OVER THEM. {Q}<sup>i</sup>HOW LARGE A PILE ≤WAS IT≥ ^I SUPPOSE IT WAS 4 ≤3≥ FEET HIGH. {Q}<sup>i</sup> YOU {HOW}<sup>i</sup> SAID YOU DIDN'T DRIVE THEM OFF WHY DIDN'T YOU DRIVE THEM OUT ≤OF YOUR FIELD&gt; ^I WANT YOU DESCRIBE THE INDIANS IN RESPECT TO THEIR DISPOSITION THEY MANIFESTED AT THAT TIME TOWARDS YOU {A}<sup>i</sup>YOU MAY GUESS THAT WHEN I WAS AFRAID TO SPEAK TO THEM , I NEVER WAS AFRAID TO SPEAK TO WHITE MAN IN MY LIFE, BUT I</p>	<p>SCATTERED AROUND ON THE GROUND? A. THE BLOODY CLOTHES WERE PILED BU-AD UP AND KIND OF HE OTHERS <b>STREWN</b> <del>STREWED</del> OVER THEM. Q. HOW LARGE A PILE WAS IT? A. I SUPPOSE IT WAS THREE FEET HIGH Q. HOW IS IT YOU DIDN'T DRIVE THEM OFF? WHY DIDN'T YOU DRIVE THEM OUT OF YOUR FIELD ? I WANT YOU TO DESCRIBE THE INDIANS AND IN RESPECT TO THEIR DISPOSITION THAT THEY MANAFESTED AT THAT TIME, TOWARDS YOU? A. YOU MAY GUESS THAT WHEN I WAS AFRSAAID TO APEAK TO THEM; I NEVER WAS AFRAID TO SPEAK TO A WHITE MAN IN MY LIFE. Q. NOT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WAS AFRAID THEN. Q. TO SPEAK TO A WHITE MAN OR THE INDIANS ? A. THERE WAS NO WHITE MEN THERE.</p> <p>BASKIN: I SUBMIT THAT THAT COURSE OF EXAMINATION IS ENTIRELY WITHOUT A RULE,IT DON'T NEED ANY ARGUMENT. SUTHERLAND: THE QUESTION I SUBMIT IS BEFORE THE COURT. COURT OVERRULED THE OBJECTION OF THE PROSECUTION AND SAID ASK YOUR QUESTION. Q. DID YOU GO TO CEDAR THAT DAY ? A. YES SIR. Q. DID YOU SEE ANY MORE OF THE INDIANS ON YOUR RETURN ? A. I DON'T RECOLLECT WHETHER THE</p>	<p>WAS AFRAID THEN. Q TO SPEAK TO WHITE MAN OR INDIANS A THERE WAS NO WHITE MEN THERE ≤AT THAT TIME≥ [space] BASKIN. I SUBMIT THAT THAT COURSE OF EXAMINATION IS ENTIRELY WITHOUT {A}<sup>i</sup> RULE. IT DON'T NEED ANY ARGUMENT. SUTHERLAND QUESTION I SUBMIT IS BEFORE THE COURT {COURT RULED ///}<sup>i</sup></p> <p>ASK YOUR QUESTION {/// Q}<sup>i</sup>DID YOU GO TO CEDAR THAT DAY {A}<sup>i</sup>YES SIR. {Q}<sup>i</sup>DID YOU SEE ANY MORE OF INDIANS ON YOUR RETURN {A}<sup>i</sup>I DON'T RECOLLECT WHETHER THE</p>	<p>AFRAID TO SPEAK TO A WHITE MAN OR INDIANS? A. THERE WAS <sup>[311]</sup> NO WHITE MEN THERE AT THA T TIME. BASKIN: I SUBMIT , YOUR HONOR, THAT THAT COURSE OF EXAMINATION IS WITHOUT A RULE; IT DON'T NEED ANY ARGUEMENT. SUTHERLAND: THE QUESTION, I SUBMIT IS BEFORE THE COURT.</p> <p>THE COURT: YOU CAN ASK YOUR QUESTION. Q. DID YOU GO TO CEDAR THAT DAY? A. YES, SIR. Q. DID YOU SEE ANY MORE OF THE INDIANS ON YOUR RETURN? A. I DON'T RECOLLECT WHETHER THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>INDIANS HAD LEFT MY FIELDS OR NOT, I RATHER SUPPOSE THEY HAD. Q. WERE YOU ACQUAINTED WITH ANY OF THOSE INDIANS ? A. I DON'T KNOW THAT I WAS. I KNEW THE INDIANS THAT BELONGED TO AND AROUND MY PLACE. Q. STATE WHETHER OR NOT THESE WERE OF THAT KIND ? A. THEY WERE PAINTED UP SO YOU COULD NOT RECOGNIZE THEM. Q. COULD YOU TELL OF WHAT BAND OR TRIBE THEY BELONGED TO ? <sup>[472]</sup> A. NO SIR, I NEVER WAS ACQUAINTED THAT MUCH WITH THEM. Q. YOU SAY THEY WERE PAINTED ? A. YES SIR. Q. ARE YOU</p>	<p>INDIANS HAD LEFT MY FIELDS OR NOT I RATHER SUPPOSE THEY HAD NOT. {Q}<sup>i</sup> WERE YOU ACQUAINTED WITH ANY OF THOSE INDIANS {A}<sup>i</sup> I DON'T KNOW THAT I WAS, BUT I KNEW THE INDIANS THAT BELONGED TO AROUND MY PLACE. {Q}<sup>i</sup> STATE WHETHER OR NOT THESE WERE OF THAT KIND {A}<sup>i</sup> THEY WERE PAINTED UP YOU COULD NOT RECOGNIZE THEM. {Q}<sup>i</sup> COULD YOU TELL OF WHAT BAND OR TRIBE THEY BELONGED TO? {TO}<sup>i</sup> A. <del>YES</del> NO SIR I NEVER WAS ACQUAINTED THAT MUCH WITH THEM. [space] {Q}<sup>i</sup> YOU SAY THEY WERE PAINTED {A}<sup>i</sup> YES SIR. {Q}<sup>i</sup> ARE YOU</p>	<p>INDIANS HAD LEFT MY FIELD'S OR NOT, I RATHER SUPPOSED THEY HADN'T . Q. WERE YOU ACQUAINTED WITH ANY OF THESE INDIANS? A. I DON'T KNOW THAT I WAS; BUT I KNEW THE INDIANS THAT BELONGED TO AND AROUND MY PLACE. Q. STATE WHETHER OR NOT THESE WERE ALL OF THAT KIND? A. THEY WERE PAINTED UP AND I COULD NOT RECOGNISE THEM. Q. COULD YOU STATE WHAT BAND OR TRIBE THEY BELONGED TO? A . A. NO, SIR, I NEVER WAS AFCQUAINTED THAT MUCH WITH THEM. Q. YOU SAY THEY WERE PAINTED? A. YES, SIR. Q. ARE YOU</p>	
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**RT**

**RS**

**BT**

**PS**

<p>FAMILIAR ENOUGH WITH THE INDIANS</p> <p>TO KNOW WHEN THEY WERE PAINTED FOR WAR OR PAINTED FOR SOME FESTIVAL</p> <p>OCCASION ? A. YES SIR. Q. WHICH WAY WERE THEY PAINTED ON THAT OCCASION ? A. FOR WAR.</p> <p>CROSS - EXAMINED .Q. MR. HAMILTON,</p> <p>DID THEY COMMIT ANY OUTRAGE ON YOU ? A. NO. Q. OR ON ANY OF YOUR NEIGHBORS ? A. NO SIR. Q. HOW WERE THEY CARRYING THEIR CLOTHING ? A. I DON'T KNOW.</p> <p>Q. YOU SAY THEY HAD COMMITTED A</p>	<p>FAMILIAR ENOUGH WITH THE INDIANS &lt;CHARACTER&gt;</p> <p>TO KNOW WHEN THEY WERE PAINTED FOR WAR OR PAINTED FOR SOME FESTIVAL</p> <p>OCCASION {A}<sup>i</sup> YES SIR. {Q}<sup>i</sup>WHICH WAY WERE THEY PAINTED ON THIS OCCASION ~ {A}<sup>i</sup> FOR WAR ~ THAT IS ALL [space] {CROSS EXAMINATION} <sup>i</sup>PROSECUTION MR. HAMILTON</p> <p>{Q}<sup>i</sup>DID THEY COMMIT ANY OUTRAGE ON YOU {A}<sup>i</sup>NO. {Q}<sup>i</sup>ON ANY OF YOUR NEIGHBORS {A}<sup>i</sup> NO SIR. [15] {Q}<sup>i</sup> HOW WERE THEY CARRYING THEIR CLOTHING {A}<sup>i</sup>I DON'T KNOW.</p> <p>{Q}<sup>i</sup>YOU SAY THEY HAD <del>SOME</del> COOKING</p>	<p>FAMILIAR ENOUGH WITH THE INDIAN CHARACTER</p> <p>TO KNOW WHEN THEY WERE PAINTED FOR WAR OR PAINTED FOR SOME <b>FESTIVE</b> <del>FESTIVAL</del></p> <p>OCCASION? A . YES, SIR . Q. WHICH WAY WERE THEY PAINTED UPON THIS OCCASION? A. THEY WERE PAINTED FOR WAR.</p> <p>CROSS - EXAMINATION OF JAMES HAMILTON, SNR BY BASKIN: Q.DID THEY &lt;COMMIT&gt; <del>DO</del> ANY OUTRAGE ON YOU, A. NO/ Q. OR ON ANY OF YOUR NEIGHBORS? A. NO, SIR. Q. HOW WERE THEY CARRYING THEIR CLOTHING? A. I DON'T KNOW, IT WAS PILED UP. Q. YOU SAY THEY HAD COOKING</p>	
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**RT**

**RS**

**BT**

**PS**

<p>DISTURBANCE ?  A. OH, I SAY  THEY WAS IN  MY FIELD. Q.  WAS THERE  ANY WAGONS  WITH THEM ? A.  NO SIR, JUST  HORSES AND  CATTLE.</p> <p>COURT: DID  YOU SAY YOU  WERE NOT  VERY FRIENDLY  TOWARDS THE  INDIANS ? A. NO  SIR, I HAVEN'T  ANY ENMITY TO  ANY MAN.</p> <p>SUTHERLAND:  WE WILL ASK  THE WITNESS  ANOTHER  QUESTION, AND  PERHAPS YOUR  HONOR WILL BE  ANSWERED BY  HIS ANSWER.  Q. ON WHAT  TERMS WERE  THE INDIANS  THAT LIVED  ABOUT FORT  HAMILTON—  STATE, WITH  REFERENCE TO  THE SETTLERS  OF THAT  PARTICULAR  PLACE ? <sup>[473]</sup></p>	<p>UTENSILS  {A}<sup>i</sup>OH I SAY  THEY WAS IN  MY FIELD. {Q}<sup>i</sup>  WAS THERE  ANY WAGONS  WITH THEM {A}<sup>i</sup>  NO SIR, JUST  HORSES AND  CATTLE.  PROSECUTION  THAT IS ALL  [space] BY  COURT DID  YOU SAY YOU  WERE NOT  VERY FRIENDLY  TOWARDS  INDIANS {A}<sup>i</sup>NO  SIR, I HAVEN'T  ANY ENMITY TO  ANY MAN.  [space] {Q}<sup>i</sup>  &lt;DEFENSE&gt; {Q}<sup>i</sup>  I WILL ASK  WITNESS  ANOTHER  QUESTION,  PERHAPS YOUR  HONOR WILL BE  ANSWERED BY  HIS ANSWER  {Q}<sup>i</sup>ON WHAT  TERMS  INDIANS  THAT LIVED  ABOUT FORT  HAMILTON ,  STATE WITH  REFERENCE TO  THE SETTLERS  OF THAT  PARTICULAR  PLACE BY</p>	<p>UTENSILS? <sup>[312]</sup>  A. OH, I SAY  THEY WAS IN  MY FIELD. Q.  WAS THERE  ANY WAGONS  WITH THEM? A  NO, SIR.</p> <p>THAT IS ALL.  THE  COURT: DID  YOU SAY YOU  WERE NOT  VERY FRIENDLY  TOWARDS THE  INDIANS? A. NO,  SIR; I HAVN'T  ENMITY TO  ANY MAN.</p> <p>SUTHERLAND:  I WILL ASK  THIS WITNESS  ANOTHER  QUESTION AND  PERHAPS YOUR  HONOR WILL BE  ANSWERED BY  HIS ANSWER?  Q. ON WHAT  TERMS WERE  THE INDANS  THAT LIVED  ABOUT FORT  HAMILTON?  STATE WITH  REFE-RENCE TO  THE SETTLERS  OF THAT  PARTICULAR  PLACE? THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>COURT: THAT WAS NOT THE POINT I HAD REFERENCE TO. BISHOP: IF THE COURT PLEASE I WISH TO SAVE THE EXCEPTION TO THE CROSS QUESTION. COURT: AFTER THE COUNSEL HAVE CLOSED — VERY WELL, THAT WILL BE ALL RIGHT.</p> <p>BISHOP: MR. HAMILTON, ON WHAT TERMS, FRIENDLY OR OTHERWISE, DID YOU AND YOUR NEIGHBORS AT FORT HAMILTON LIVE WITH THE INDIANS ? A. PERFECTLY PEACABLE, AS LONG AS WE FED THEM, BUT, OF COURSE, WE HAD TO FEED THEM. THEY WROUGHT</p>	<p>COURT THAT WAS NOT THE POINT I HAD REFERENCE TO [space] BISHOP COURT PLEASE I WISH TO SAVE THE EXCEPTION TO THE COURT’S QUESTION &lt;BY COURT&gt; TO THE WITNESS AFTER THE COUNSEL HAVE CLOSED THOUGH YOU MAY ANSWER &lt;BY COURT&gt; VERY WELL [space] {BISHOP}^i {Q}^i MR. HAMILTON ON WHAT RELATIONS OR TERMS FRIENDLY OR OTHERWISE, DID YOU AND YOUR NEIGHBORS &lt;NEIGHBORHOOD&gt; AT FORT HAMILTON LIVE WITH THE INDIANS. {A}^i PERFECTLY PEACEABLY AS LONG AS WE FED THEM, BUT OF COURSE WE HAD TO FEED THEM [space] THEY WROUGHT</p>	<p>COURT: THAT WASN’T THE POINT I HAD REFERENCE TO. BISHOP: IF THE COURT PLEASE I WISH TO SAVE AN EXCEPTION TO THE COURT’S QUEXTION. THE COURT: AFTER THE COUNSEL HAVE GOT THROUGH THEMN YOU MAY ANSWER.</p> <p>BISHOP: MR. HAMILTON, ON WHAT RELATIONS, OR TERMS, FRIENDLY OR OTHERWISE, DID YOU OR YOUR NEIGHBORHOOS DAT FORT HAMILTON LIVE WITH THE INDIANS? A. PERFECTLY PEACABLE, AS LONG AS WE FED THEM, BUT OF COURSE WE HAD TO FEED THEM. THEY WROUGHT</p>	
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**BT**

**PS**

<p>FOR US AND          DONE THE          BEST THEY          COULD, AND          WE WERE          KIND TO THEM.          Q. WAS THERE          OCCASIONAL          INTERRUPTIONS          OF YOUR          FRIENDLY          RELATIONS          WITH THEM          BECAUSE YOU          DIDN'T DO ALL          THEY WANTED          YOU TO DO FOR          THEM A. I          DON'T KNOW          THAT THERE          WAS          PARTICULARLY.          Q. ABOUT          HOW MANY          INDIANS WERE          THERE THAT          WERE          ACCUSTOMED          TO BEING ABOUT          FORT          HAMILTON ? A.          THERE WERE          NOT MORE          THAN ABOUT          A DOZEN          INDIANS THAT          BELONGED TO          THE CREEK          WHERE I          BELONGED TO.          Q. BUT AT THE          TIME — IN THE          FIELD ? A. I          SUPPOSE</p>	<p>FOR US AND          DONE {THE}<sup>i</sup>          BEST THEY          COULD AND          {WE}<sup>i</sup> WERE          KIND TO THEM.          Q WAS THERE          OCCASIONAL          INTERRUPTIONS          IN YOUR          FRIENDLY          RELATIONS          WITH THEM          BECAUSE YOU          DIDN'T DO ALL          THEY WANTED          YOU TO DO FOR          THEM {A}<sup>i</sup> I          DON'T KNOW          THAT THERE          WAS          PARTICULARLY.          {QABOUT}<sup>i</sup>          HOW MANY          INDIANS WERE          THERE THAT          WERE          ACCUSTOMED          TO BE ABOUT          FORT          HAMILTON A          THERE WAS          NO MORE          THAN ABOUT          {A}<sup>i</sup> DOZEN          INDIANS          BELONGED TO          THE CREEK,          WHERE I          BELONGED TO          {Q}<sup>i</sup> BUT AT THE          TIME IN THE          FIELD {A}<sup>i</sup> I          SUPPOSE</p>	<p>FOR US AND          DONE THE          BEST THEY          COULD, AND          WE WERE          KIND TO THEM.          Q: WAS THERE          AOCCASIONAL          INTERRUPTIONS          OF YOUR          FRIENDLY          RELATIONS            BECAUSE YOU          DIDN'T DO ALL          THEY WANTED          YOU TO DO FOR          THEM? A. I          DON'T KNOW          THAT THE RE          WAS          PARTICULARL<del>U</del>          Y. Q. ABOUT          HOW MANY          INDIANS WERE          THERE THAT          WERE          ACCUSTONMED          TO BE ABOUT          FORT          HAMILTON? A.          THERE WERE          NOT MORE          THAN ABOUT          A DOZEN          INDIANS          BELONGING TO          THQAT CREEK          WHERE I          BELONGED TO          IT; BUT AT THE          TIME IN THE          FIELD, I          SUPPOSED</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THERE WAS ABOUT FIFTY—I COULD NOT TELL — MORE OR LESS Q. AND WHAT WERE THEY IN REGARD TO SEX—WERE THEY ALL WARRIORS A. ALL WARRIORS —I SEEN NOTHING ELSE OR ANY OF THAT GARB.</p> <p>[474] JOHN HAMILTON, JR. SWORN FOR DEFENDANT.</p> <p>Q. WHERE DO YOU RESIDE ? A. DOWN AT HAMILTON’S FORT, IRON COUNTY; Q. HOW FAR IS THAT FROM CEDAR CITY ? A. SEVEN MILES. Q. WHERE DID YOU RESIDE IN THE</p>	<p>THERE WAS ABOUT FIFTY I COULD NOT TELL, MORE OR LESS. [space] {Q}^i AND WHAT WERE THEY IN REGARD TO SEX, WERE THEY ALL WARRIORS ? A ALL WARRIORS , I SEEN NOTHING ELSE OR/AND[?] IN THAT GARB. { }^i BY DEFENSE AND PROSECUTION THAT IS ALL } }^i [space] <b>JOHN HAMILTON JR</b></p> <p>{Q}^i WHERE DO YOU RESIDE {A}^i DOWN HAMILTON’S IRON COUNTY. {Q}^i HOW FAR IS THAT FROM CEDAR CITY {A}^i 7 MILES. {Q}^i WHERE DID YOU RESIDE IN THE</p>	<p>THE RE WAS ABOUT 50; I COULD NOT TELL. MORE OR LESS. Q. AND HOW AND WHAT EWERE THEY IN REGARD TO <b>SEX</b> <del>SEX</del>? WERE THEY ALL WARRIORS? A. ALL WARIORS, I SEE NOTHING ELSE, ALL WERE IN THAT GARB.</p> <p>THAT IS ALL. [313] JOHN MAMILTON, JR BEING CALLED ON THE PART OF THE DEFENSE, WAS EXAMINED AS FOLLOWS BY J.G. <del>SUTHERLAND:</del> <b>BISHOP Q .</b> WHERE DO YOU RESIDE, MR. HAMILTON? A. DOWN IN HAMILTON’S FORT IN IRON COUNTY. Q. HOW FAR IS THAT FROM CEDAR CITY? A. SEVEN MILES. Q. WHERE DID YOU RESIDE IN THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>FALL OF 1857 ?  A. AT THE  SAME PLACE,  ABOUT HALF A  MILE WEST OF  WHERE WE NOW  LIVE. Q. WHAT  WAS THE PLACE  THEN CALLED ?  A. IT WAS  CALLED  SHIRT'S  CREEK. Q.  WHAT IS IT NOW  CALLED ? A.  HAMILTON'S. Q.  IS THERE A  PLACE DOWN  THERE CALLED  HAMILTON'S  FORT ? A. THAT  IS THE PLACE  WE HAVE  MOVED TO, OUT  OF THE  FORT, INTO  THE TOWN. THE  FORT WAS A  HALF A MILE  BELOW. Q.  WHAT WAS IT ?</p> <p>A. AN  ADOBE FORT.  Q. WHEN WAS  IT BUILT ?  A. I REALLY  COULD NOT  TELL YOU,</p> <p>BUT IT  WAS IN 1856 . Q.</p>	<p>FALL OF 1857  {A}<sup>i</sup>AT THE  SAME PLACE,  ABOUT HALF  MILE WEST OF  WHERE WE NOW  LIVE. {Q}<sup>i</sup>WHAT  WAS PLACE  THEN CALLED  {A}<sup>i</sup>IT WAS  CALLED  SHIRT'S  CREEK {Q}<sup>i</sup>  WHAT IS IT NOW  CALLED {A}<sup>i</sup>  HAMILTON {Q}<sup>i</sup>  IS THERE  PLACE DOWN  THERE CALLED  HAMILTON'S  FORT {A}<sup>i</sup>THAT  IS THE PLACE  WE HAVE  MOVED TO OUT  OF  FORT INTO  THE TOWN THE  FORT WAS  HALF MILE  BELOW &lt;OF  WHAT WAS IT  BUILT OR  MADE=&gt; {Q}<sup>i</sup>  WHAT WAS IT  {A}<sup>i</sup>IT WAS {AN}<sup>i</sup>  ADOBE FORT  {Q}<sup>i</sup>WHEN WAS  IT BUILT  WELL I REALLY  COULD NOT  TELL THE  YEAR. <sup>[16]</sup> {A}<sup>i</sup>  &lt;BUT THINK=&gt; IT  WAS 1856 {Q}<sup>i</sup></p>	<p>FALL OF '57?  A . AT THE  SAME PLACE,  ABOUT A HALF  A MILE WEST OF  WHERE WE NOW  LIVE. Q. WHAT  WAS THE PLACE  THEN CALLED?  A. IT WAS  CALLED  SHIRTTZS'  CREEK. Q.  WHAT IS IT NOW  CALLED? A.  HAMILTON'S. Q.  IS THERE A  PLACE DOWN  THERE CALLED  HAMILTON'S  FORT? A. THAT  IS THE PLACE  WE HAVE  MOVED TO, OUT  OF THE  FORT INTO  THE TOWN. THE  FORT WAS A  HALF A MILE  BELOW. Q. OF  WHAT WAS IT  BUILT OR  MADE?</p> <p>A. IT WAS AN  ADOBIE FORT. Q.  WHEN WAS  IT BUILT? .  WELL, I REALLY  WCOULD NOT  TELL YOU THE  YEAR,  BUT THINK IT  WAS IN I856;. Q.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WHAT WAS THE YEAR IT WAS BUILT IN —</p> <p>YOU HAD LIVED IN THE FORT THEN—WHEN DID YOU MOVE OUT OF THE FORT ? A. WELL,SIX YEARS AGO,AND TO</p>	<p>WHAT WAS YEAR IT WAS BUILT &lt;YES SIR&gt; {Q}^i YOU HAD LIVED IN FORT THEN = WHEN DID YOU MOVE OUT OF FORT {A}^iWELL SIX YEARS AGO AND TO</p>	<p>AND THA T WAS THE YEAR IT WAS BHUILT IN? A. YES, SIR. Q.AND YOU HAVE LIVED IN THE FORT, THEN; WHEN DID YOU MOVE OUT OF THE FORT? A. WELL, IT IS SIX YEARS AGO TO NOW; FWINCE WE</p>	
<p>WHERE WE NOW LIVE. Q. YOU WERE THERE IN 1857 ? A. YES SIR,AT THE FORT. [475] Q. DO YOU REMEMBER OF EVER SEEING THE TRAIN THAT WAS KNOWN AS THE ARKANSAS TRAIN PASSING THROUGH THE COUNTRY ? A. I DO SIR. Q. WHERE DID YOU SEE IT ? A. I SEEN ‘EM RIGH THERE AT THE CREEK. Q. WHAT WERE THEY DOING ? A. WELL THE TRAIN CAME AND PASSED THROUGH THERE AND</p>	<p>WHERE WE NOW LIVE {Q}^iYOU WAS THERE IN 57 {A}^iYES SIR AT THE FORT {Q}^iDO YOU REMEMBER OF EVER SEEING THE TRAIN THAT WAS KNOWN AS ARKANSAS TRAIN PRESSING THROUGH COUNTRY {A}^iI DO SIR {Q}^i WHERE DID YOU SEE IT {A}^iI SEEN ‘EM RIGHT &lt;THERE&gt; AT SHIRT’S CREEK. {Q}^i WHAT WERE THEY DOING A WELL {A}^i, THE TRAIN CAME PASSED THROUGH &lt;THERE&gt; , AND</p>	<p>WHERE WE NOW LIVE. Q . YOU WERE THERE IN ‘57? A. YES, SIR; AT THE FORT. Q. DO YOU REMEMBER OF EVER SEEING A TRAIN THA T WAS NKNOWN AS THE ARKANSAS TRAIN PASSING THROUGH THE COUNTRY? A. I DO, SIR. Q. WHEREEDDO YO DID YOU SEE IT? A. I SEEN THEM RIGHT THERE AT THE CREEK. Q. WHAT WERE THEY DOING? A. WELL, THE TRAIN PASSED THROUGH THERE AND</p>	

**RT**

**RS**

**BT**

**PS**

<p>THERE WAS A MAN AT PAROWAN HAD TRADED THEM A COW, RUNNING DOWN AT OUR PLACE, AND THEY WANTED ME TO FETCH THEM THE COW. THEY CAME DOWN THAT WAY TO GET THIS COW. Q. THEY HAD LEFT CEDAR ? A. THEN I UNDERSTOOD — YES SIR, I SUPPOSE THEY HAD PASSED THROUGH THERE. Q. WHICH WAY WERE THEY;MOVING THEN ? A. THEY WENT ACROSS THE FLAT TO THE CREEK, CALLED QUEETSUPAH<sup>391</sup> <del>SSHITCREEK?</del> AND CAMPED . Q. HOW FAR IS THAT FROM  CEDAR ?</p>	<p>THERE WAS MAN AT PAROWAN HAD TRADED THEM COW RUNNING DOWN AT OUR PLACE  FETCHED THEM {THE}<sup>i</sup> COW ; THEY CAME DOWN THAT WAY TO GET THIS COW {Q}<sup>i</sup> THEY HAD LEFT CEDAR THEN I UNDERSTOOD YOU <del>THEN</del> HAD THEY {A}<sup>i</sup> YES SIR, I SUPPOSE THEY HAD PASSED THROUGH &lt;THERE&gt; {Q}<sup>i</sup> WHICH WAY WERE THEY MOVING THEN <sub>A</sub>THEY WENT ACROSS VALLEY TO THE CREEK CALLED [<i>space</i>] QUEETSUPAH[?]  ≤AND CAMPED≥ {Q}<sup>i</sup>HOW FAR IS THAT FROM <del>CEDAR CITY</del> CEDAR FORT</p>	<p>THE RE WAS A MA N AT PAROWAN HAD TRADED <b>THEM</b> <del>THEM</del> A COW, RUNNING DOWN AT <b>OUR</b> <del>OUT</del> PLACE. I FETCHED THEM THE COW, THEY <del>CAME</del> <b>CAME</b> DOWN THIS WAY TO GET THIS COW. Q. THEY HAD LEFT CEDAR THEN, AS I UNDERSTA D YOU, HAD THEY? A. YES, SIR, I SUPPOSEED, THEY HAD PASSED THROUGH THE RE. <sup>[314]</sup> Q. WHICH WAY WERE THEY MOVING THEN? A. THEY WENT A<b>V</b>CROSS THE VALLEY TO A CREEK CALLED <del>QUTT</del> QUEETSUPPAH,  AND CAMPED. Q: HOW FAR IS THAT FROM  CEDAR ?</p>	
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391. Lake Quichapa.

**RT**

**RS**

**BT**

**PS**

<p>A. IT IS IN THE NEIGHBORHOOD OF 6 MILES. Q. THIS TRADE THEY MADE IN CEDAR ? A. NO SIR, THEY MADE IT IN PAROWAN. Q. WHAT WAS IT STATED THAT THEY TRADED ? A. A GUN THEY HAD SOLD THEM FOR A COW. THEY TRADED WITH A MAN BY THE NAME OF HADDEN, FOR</p> <p>A COW RUNNING AT OUR PLACE. THEY GAVE THEM AN ORDER TO GET THE COW. Q. HOW WAS THE KNOWLEDGE OF THAT BROUGHT TO YOU ? A. THEY HAD A LINE TO ME. <sup>[476]</sup> BASKIN: I</p>	<p>{A}<sup>i</sup>IT IS IN THE NEIGHBORHOOD OF 6 MILES {Q}<sup>i</sup> THIS TRADE THEY {MADE}<sup>i</sup> IN CEDAR ←{A}<sup>i</sup> NO SIR⇒ THEY MADE IN PAROWAN {Q}<sup>i</sup> WHAT WAS IT TELL THAT TRADE AGAIN {A}<sup>i</sup> THEY HAD SOLD THEM COW = THEY TRADED, OR THAT MAN BY THE NAME OF HADDEN<sup>392</sup></p> <p>RUNNING AT OUR PLACE. THEY GAVE THEM AN ORDER TO GET THE COW {Q}<sup>i</sup>HOW WAS KNOWLEDGE OF THAT BROUGHT HOME TO YOU {A}<sup>i</sup>THEY HAD A LINE ≤OR NOTE≥ {H}<sup>i</sup>ADDEN TO ME BASKIN: I</p>	<p>A IT IS IN THE NEIGHBORHOOD OF SIX MILES. Q. THIS TRADE <del>THAT</del> THEY MADE IN CEDAR CITY? A. NO, SIR; THEY MADE THIS TRADE IN PAROWAN. Q. WHAT WAS IT? TELL <del>THAT</del> <del>TAT</del> TRADE AGAIN ? A. THEY HAD SOLD THEM A COW; THEY TRADED—OR <del>OF</del> THAT <del>MAN</del> MAN BY THE NAME OF HADDEN HAD TRADED THEM A COW RUNNING AT OUR PLACE; AND HE GAVE THEM AN ORDER T O GET THIS COW HERE. Q. HOW WAS THE KNOWLEDGE OF THAT BROUGHT HOME TO YOU? A. THEY HAD A LINE OR NOTE FROM HADDEN TO ME . BASKJIN: I</p>	
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392. Written “ND”; (the initial h is frequently omitted by Rogerson). Above the shorthand is inserted {HADDEN}<sup>i</sup>.

**RT**

**RS**

**BT**

**PS**

<p>SUPPOSE WHEN COUNSEL STARTED OUT</p> <p>THIS QUESTION WAS RELEVANT.</p> <p>IT IS IMPOSSIBLE TO CONNECT THIS TESTIMONY WITH ANYTHING AT ISSUE IN THIS CASE. SPICER REPLIED AS TO THE RELEVANCY AND PURPOSE OF THE QUESTION AND</p> <p>THE COURT RULED:</p>	<p>SUPPOSED WHEN {THE}<sup>i</sup> COUNSEL STARTED OUT</p> <p>THIS QUESTION WAS RELEVANT.</p> <p>IT IS IMPOSSIBLE CONNECT THIS TESTIMONY WITH ANYTHING AT ISSUE IN THIS CASE. SPICER IDEA IN RELATION TO THIS IS YOUR HONOR WE HAVE NOT SHOWN ANYTHING OF THE KIND. WE ARE NOW &lt;TRY&gt; SHOWING CONNECTION, HOW HE BECAME MORE</p> <p>ACQUAINTED WITH THEM. IT IS VERY PERTINENT WE SHOULD CONNECT KNOWLEDGE {COURT RULED}<sup>i</sup> BY</p>	<p>SUPPOSED WHEN THE COUNSEL STARTED OUT WITH THIS WITNESS THAT THESE QUESTIONS WERE RELEVANT, BUT I SEE NOT, THAT IT IS IMPOSSIBLE TO CONNECT THIS TESTIMONY WITH ANYTHING AT ISSUE IN THIS CASE. SPICER: THE IDEA IN RELATION TO THIS, YOUR HONOR, IS THAT WE HAVN'T SHOWN ANYTHING OF THE KIND. WE ARE NOW TRYING TO SHOW THE CONNECTION HOW HE <b>BECAME</b> <del>CACAME</del> ACQUAINTED WITH THEM. IT IS VERY PERTINENT WE <del>SHOULD</del> CONNECT THE KNOWLEDGE— —</p>	
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**RT**

**RS**

**BT**

**PS**

<p>IF YOUR OBJECT IS TO SHOW THE CONNECTION YOU MAY GO AHEAD.  Q. THE TRAIN WAS MOVING, WHICH WAY ?  A.  WESTWARD. Q. ON WHAT ROAD OR THOROUGHFARE OF THE COUNTRY ? A. I SUPPOSED THEY WERE AIMING TO GO BACK ON THE CALIFORNIA ROAD AGAIN, BUT I NEVER ASKED THEM ANY QUESTION AT ALL. Q. DOES THAT ROAD LEAD FROM THE MOUNTAIN MEADOWS—  HOW FAR WAS THE MOUNTAIN MEADOWS FROM YOUR PLACE ? A. IN THE NEIGHBORHOOD OF 30 MILES.  Q. BEFORE ANSWERING THIS QUESTION,</p>	<p>COURT  IF YOUR OBJECT IS TO SHOW A CONNECTION YOU MAY GO AHEAD. [space]  {Q}<sup>i</sup>THE TRAIN WERE MOVING, WHICH WAY WESTWARD {A}<sup>i</sup>  WESTWARD ON {Q}<sup>i</sup>WHAT ROAD OR THOROUGHFARE OF {THE}<sup>i</sup> COUNTRY {A}<sup>i</sup>I SUPPOSE THEY WERE AIMING TO GO BACK ON CALIFORNIA ROAD AGAIN, {BUT}<sup>i</sup> I NOT ASK THEM ANY QUESTION S AT ALL. {Q}<sup>i</sup>  DOES THAT ROAD LEAD FROM MOUNTAIN MEADOWS  ≤<sub>A</sub>YES SIR≥  HOW FAR WAS MOUNTAIN MEADOWS FROM YOUR PLACE {IN THE A}<sup>i</sup>  NEIGHBORHOOD OF 30 MILES.  {Q}<sup>i</sup>BEFORE ANSWERING THIS QUESTION,</p>	<p>THE COURT: <del>IF</del>  IF YOUR IDEA IS TO SHOW A CONNECTION , FGO AHEAD.  Q. THE TRAIN WAS MOVING WHICH WAY?  A.  WESTWARD.  Q. ON WHAT ROAD OR THOROUGHFARE OF THE COUNTRY? A . I SUPPOSED THEY WERE AIMING TO GO BACK ONTO THE CALIFORNIA ROAD AGAIN, BUT I NEVER ASKED THEM ANY QUESTIONS AT ALL. Q. DOES THAT ROAD LEAD THROUGH THE MOUNTAIN MEADOWS? A. YES, SIR Q. HOW FAR WAS THE MOUNTAIN MEADOWN FROM YOUR PLACE? A. IN THE NEIGHBORHOOD OF 30 MILES. SOUTHERLAND/  Q. BEFORE ANSWERING THIS QUESTION,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>MR. HAMILTON,  YOU WILL WAIT FOR THE  OBJECTION OF THE PROSECUTION. Q. WAS THIS LINE  FROM THE MAN IN PAROWAN  WHO HAD TRADED FOR THE COW SHOWN TO YOU ? A. WELL SIR, I COULD NOT TELL TO SAVE MY LIFE, IT IS SO LONG AGO, BUT I PRESUME IT WAS. Q. I WILL ASK YOU THEN IF THEY GOT THE COW THAT THEY TRADED FOR ? A. NO SIR, THEY COULD NOT FIND THEIR COW, BUT THEY TRADED THE COW TO A BROTHER OF MINE FOR A STEER AND</p>	<p>MR. HAMILTON &lt;THAT I AM NOW GOING ASK YOU&gt; YOU WILL WAIT FOR THEIR  OBJECTION =  WAS THIS LINE  FROM {THE}<sup>i</sup> MAN IN PAROWAN, ≤THE ONE≥ WHO HAD TRADED FOR THE COW = WAS ≤IT&gt; SHOWN TO YOU ? <sup>[17]</sup> {A}<sup>i</sup> WELL SIR I COULD NOT TELL TO SAVE MY LIFE ; IT IS SO LONG AGO AND {BUT}<sup>i</sup> I PRESUME IT WAS. [space] {Q}<sup>i</sup> I WILL ASK THEN IF THEY GOT THEIR COW {THAT}<sup>i</sup> THEY TRADED FOR {A}<sup>i</sup> NO SIR, THEY COULD NOT FIND THEIR COW, BUT THEY TRADED THE COW TO {A}<sup>i</sup> BROTHER OF MINE FOR {A}<sup>i</sup> STEER {AND}<sup>i</sup> {HE}<sup>i</sup></p>	<p>MR. HAMILTON THAT I AM NOW GOING TO ASK YOU, YOU WILL WAIT FOR THE OTHER COU NSEL'S OBJECTION.  <sup>[315]</sup> Q. WAS THIS LINE YOU SPOKE OF FROM THE MAN IN PAROWAN <b>FROM</b> THE ONE <del>WHO</del> <b>WHO</b> HAD TRADED THEM THE COW, WAS IT SHOWN TO YOU? A. WELL, SIR, I COULD NOT TELL YOU TO SAVE MY LIFE; IT IS SO LONG AGO THAT I PRESUME IT WAS. Q. I WILL ASK YOU THEN IF THEY GOT THEIR COW THAT THEY TRADED FOR? A. NO, SIR, THEY COULD NOT FIND THEIR COW; BUT THEY TRADED THE COW TO A BROTHER OF MINE FOR A <b>STEER STEAR,</b> AND</p>	
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**RT**

**RS**

**BT**

**PS**

<p>AFTERWARDS HE FOUND HER DOWN AT OLD FORT HARMONY. Q. THEY GOT THAT STEER THEN ? <sup>[477]</sup> A. YES SIR. Q. AT THE TIME THIS EMIGRANT TRAIN PASSED THROUGH WERE THERE ANY INDIANS IN THE COUNTRY ? A. THERE HAD BEEN ON DAYS BEFORE. Q. HOW LONG, IF YOU KNOW OF THEM ? A. WELL, THEY HAD ALSO BEEN A FEW INDIANS AROUND THE CREEK. WHETHER THEY WAS THERE THEN OR NOT I COULD NOT SAY JUST WHEN THEY PASSED THROUGH. A FEW DAYS PREVIOUS THERE HAD BEEN INDIANS THERE. THERE HAD ALWAYS</p>	<p>AFTERWARD HE FOUND HER DOWN AT OLD FORT HARMONY {Q}<sup>i</sup> THEY GOT THAT STEER THEN {A}<sup>i</sup>YES SIR. {Q}<sup>i</sup> AT THE TIME THIS EMIGRANT TRAIN PASSED THROUGH , WERE THERE ANY INDIAN S IN THE COUNTRY {A}<sup>i</sup> THAT HAD BEEN ON DAYS BEFORE {Q}<sup>i</sup> OR AFTER YOU KNOW OF {A}<sup>i</sup>WELL, &lt;THEY HAD&gt; ALWAYS<sup>393</sup> BEEN A FEW INDIANS AROUND {THE}<sup>i</sup> CREEK , WHETHER THERE WAS THEN OR NOT I COULD NOT SAY JUST WHEN THEY PASSED THROUGH. {CONDITION Aq}<sup>i</sup> DAYS PREVIOUS THERE HAD BEEN INDIANS THERE THERE HAD ALWAYS</p>	<p>AFTERWARD HE FOUND HER DOWN AT OLD FORT HARMONY. Q. THEY GOT THAT STEER THEN? A. YES, SIR? Q. AT THE TIME THI S EMIGRANT TRAIN PASSED THROUGHH, WERE THERE ANY INDIANS IN THE COUNTRY? A. THERE JHAD BEEN ON DAYS BEFORE. ON Q. OR AFTER THAT <b>THAT</b> YOU KNOW OF? A. WELL, THEY HAD <del>ALSO</del> BEEFN A FEW INDIANS A<del>T</del>ROUND THE CREEK, WHETHER THERE WAS THE N OR NOT, I COULD NOT SAY, JUST WHEN THEY PASSED THROUGH;  DAYS PREVIOUS THERE HAD BEEN INDIANS THERE — ALWAYS</p>	
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393. Vowels added later in ink render the word “ALSO”.

**RT**

**RS**

**BT**

**PS**

<p>BEEN A FEW LIVING THERE—MADE THEIR HOMES THERE .</p> <p>A FEW DAYS PREVIOUS, BUT I COULD NOT SAY.</p> <p>Q. WERE YOU ACQUAINTED OR HAD KNOWLEDGE OF THE INDIANS THAT PERMANENTLY REMAINED THERE ? A. YES, THERE WAS TWO OR THREE FAMILIES I KNEW . Q. YOU KNEW THE INDIANS THAT LIVED THERE ? A. YES SIR. Q. TWO OR THREE FAMILIES ? A. YES SIR, THERE WAS THREE FAMILIES THAT CLAIMED THIS CREEK. Q. DID YOU SEE ANY STRANGE INDIANS THERE ? A. NO SIR, I COULD NOT SAY I DID.</p>	<p>BEEN FEW LIVING THERE , MADE THEIR HOMES THERE .</p> <p>{CONDITION}<sup>i</sup></p> <p>{A}<sup>i</sup>WERE THERE FEW DAYS PREVIOUS I COULD NOT SAY [space]</p> <p>{Q}<sup>i</sup>WERE YOU ACQUAINTED OR HAD ≤YOU A≥ KNOWLEDGE OF INDIANS THAT PERMANENTLY REMAINED THERE {A}<sup>i</sup>YES, THERE WAS TWO OR 3 FAMILIES I KNEW. {Q}<sup>i</sup>YOU KNEW THEM INDIANS THAT LIVED THERE {A}<sup>i</sup>YES SIR {Q}<sup>i</sup>TWO OR THREE FAMILIES {A}<sup>i</sup>YES SIR THERE WAS 3 FAMILIES THAT CLAIMED THIS CREEK [space]</p> <p>{Q}<sup>i</sup>DID YOU SEE ANY OTHER STRANGE INDIANS THERE {A}<sup>i</sup>NO SIR I COULD NOT SAY I DID. I</p>	<p>BEEN A FEW LIVING THERE —MADE THEIR HOMES THERE, AND WERE THERE A FEW DAY PREVIOUS BUT I COULD NOT TELL YOU WHEN. Q. WERE YOU ACQUAINTED OR HAD YOU A KNOWLEDGE OF THE INDIANS THAT PERMANENTLY REMAINED THERE ? A. YES, THERE WAS TWO OƆR THEREE FAMILIES I KNEW. Q. YOU KNEW THE INDIANS THA T LIEVED THERE? AA. YES, SIR. Q. YOU SAY TWO OR THREE FAMILIES? A . YES, SIR: THERE WAS THREE FAMILIES THA T CLAIMED THIS CREEK. Q. DI D YOU SEE ANY OTHER STRANGE INDIANS THERE? A NO, SIR, I COULD NOT SAY THAT I DID. Q. I</p>	
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**RT**

**RS**

**BT**

**PS**

<p>Q. PREVIOUS TO THIS TRAIN PASSING THROUGH ? A. I COULD NOT SAY I DID. Q. WAS THERE ANY EXCITEMENT IN THE COUNTRY AT THAT TIME IN RELATION TO WILD INDIANS— STRANGE INDIANS, BEING IN THE COUNTRY, LARGE  NUMBERS CAREY, YOU MAY ASK HIM IF HE HAD ANY FEARS ?  BISHOP: TO ACCOMMODATE THE PROSECUTION I WILL PUT IT IN THAT SHAPE. Q. WHAT WAS THE STATE OF THE COUNTRY IN RELATION TO STRANGE INDIANS <sup>[478]</sup> AROUND THERE ?</p>	<p>MEAN {Q}<sup>1</sup> PREVIOUS TO THIS TRAIN PASSING THROUGH {A}<sup>1</sup>I COULD NOT SAY I DID [space] WAS THERE {Q}<sup>1</sup>ANY EXCITEMENT IN {THE}<sup>1</sup> COUNTRY AT THAT TIME RELATION TO WILD INDIANS , STRANGE INDIANS, BEING IN THAT COUNTRY  &lt;IN&gt; LARGE NUMBERS {?}<sup>1</sup> CAREY YOU MAY ASK HIM IF HE HAD ANY FEARS BASKIN WOMEN BY HIM[?] [space] {BISHOP}<sup>1</sup> TO ACCOMMODATE {THE}<sup>1</sup> PROSECUTION I WILL PUT IT IN THAT SIZE[?] SHAPE {Q}<sup>1</sup>WHAT WAS &lt;SUTHERLAND&gt; STATE OF COUNTRY IN RELATION TO STRANGE INDIANS AROUND THERE</p>	<p>MEAN PREVIOUS TO THIS TRAIN PASSING THROUGH? A . I COULD NOT SAY I DID. Q. WAS THERE ANY <del>EXP</del> EXCITEMENT IN THE COUNTRY AT THAT <b>TIME</b> IN RELA-TION TO WILD INDIANS —STARANGE INDIANS BEING IN <b>THAT</b> <b>COUNTRY</b> <del>TTTHHAT</del> <del>COUNTRY</del> IN LARGE NEMBERS? CAREY: YOU MAY ASK HIM IF HE HAD ANY FEARS.  <sup>[316]</sup> BISHOP: TO ACCOMMODATE THE PROSECUTION I WILL PUT IT IN THAT <del>SHAPE.</del> <b>Q.</b> WHAT WAS THE STATE OF THE <del>COMP</del>COUNTR Y IN RELATION TO STRACNHGE INDIANS AROUND THERE? <b>A.</b></p>	
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**RT**

**RS**

**BT**

**PS**

<p>SPICER: I AM NOT ASKING</p> <p>THE QUESTION YOUR HONOR AS TO RIGHT THERE AT HIS PLACE, I AM ASKING THE QUESTION NOW, WHAT WAS THE STATE OF THE COUNTRY IN GENERAL, NOT ONLY AT HIS RANCH, AS THERE WERE SEVERAL FAMILIES LIVED THERE.</p> <p>Q. I WILL ASK YOU THE QUESTION IN THAT FORM. DID YOU KNOW AT THE TIME THE STATE OF THE COUNTRY ?</p> <p>WITNESS: YES</p>	<p><del>SPICER I AM NOT WE ARE NOT ASKING YOUR HONOR THE QUESTION AS TO RIGHT THERE AT HIS PLACE I AM ASKING THE QUESTION NOW WHAT WAS STATE OF COUNTRY IN</del> <del>≤GENERAL≥ NOT ONLY AT HIS RANCH AS THERE WAS SOME FAMILIES LIVING ≤THERE≥</del> ? [space] {Q} I WILL ASK YOU THE QUESTION IN THAT FORM. DID YOU KNOW AT THE TIME STATE OF &lt;THE&gt; COUNTRY ?</p> <p>[space] BISHOP COURT PLEASE DEFENDANT FEELING VERY POOR HEALTH THIS MORNING I WILL ASK COURT TO ADJOURN AS IT IS TIME TO ADJOURN NOW</p> <p>[space] {A} I WITNESS YES</p>	<p>SPICER: WE ARE NOT ASKING, YOUR HONOR, THE QUESTION AS TO RIGHT THERE AT HIS PLACE. I AM ASKING THE QUESTION , NOW, WHAT WAS THE STATE OF THE COUNTRY IN GENERAL, AND THE FEELING AT THIS RANCKH AS THERE WAS SOME FAMILIES LIVING THERE.</p> <p>I WILL ASK YOU THE QUESTION IN THAT FORM. Q DID YOU KNOW <del>KNOW</del> AT THE T IME THE STATE OF THE COUNTRY??</p> <p>A. YES,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>SIR, THERE WAS CONSIDERABLE EXCITEMENT IN THE COUNTRY AT THAT TIME. RECESS UNTIL HALF PAST TWO O’CLOCK P.M. [space] TWO O’CLOCK P.M. SATURDAY JULY 31ST 1875. EXAMINATION RESUMED.</p> <p>Q. MR. HAMILTON DID YOU SEE ANY INDIANS AT YOUR PLACE IMMEDIATELY AFTER THIS CAMP HAD PASSED ? A. YES SIR. Q. ABOUT HOW MANY ? A. I COULD NOT SAY, QUITE A NUMBER— DIDN’T PAY ANY PARTICULAR ATTENTION. Q. I WISH YOU WOULD GET AT THE NUMBER AS</p>	<p>SIR THERE WAS CONSIDERABLE EXCITEMENT IN THE COUNTRY {AT THAT TIME.}<sup>i</sup> [space] <b>RECESS</b> UNTIL HALF AFTER TWO O’CLOCK [space] <sup>[18]</sup> <b>2. PM.</b></p> <p><b>SATY. JULY 31. 1875. 2.30 PM.</b> [space]</p> <p><b>JNO HAMILTON JR.</b> <b>2 40 P {M}</b><sup>i</sup> WITNESS ON STAND {Q}<sup>i</sup> MR. HAMILTON Q DID YOU SEE ANY INDIANS AT YOUR PLACE IMMEDIATELY AFTER THIS EMIGRANT PARTY PASSED {Q}<sup>i</sup> YES SIR {Q}<sup>i</sup> ABOUT HOW <del>TOGETHER</del> MANY {Q}<sup>i</sup> I COULD NOT SAY, QUITE A NUMBER DIDN’T PAY ANY PARTICULAR ATTENTION {Q}<sup>i</sup> I WISH YOU WOULD GET AT NUMBER AS</p>	<p>SIR, THERE WAS CONSIDERABLE EXCITEMENT IN THE COUNTRY AT THAT TIME. COURT ADJOURNED TILL 2:30 P.M. —————OO———— ———</p> <p>SATURDAY, JULY, 31ST ? P.M? 2:30, P.M. EXAMINATION OF JOHN HAMILTON JR. RESUMED.</p> <p>Q. MR. HAMILTON DID YOU SAY, <del>DID YOU</del> SEE ANY INDIANS OF AT YOUR PLACE IMMEDIATELY AFTER THIS EMIGRANT PARTY PASSED? A. YES, SIR. Q. ABOUT HOW MANY? A. I COULD NOT SAY, QUITE A NUMBER. I DID NOT PAY ANY PARTICULAR ATTENTION. Q. I WISH YOU WOULD GET AT THE NUMBER AS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>NEAR AS YOU CAN—MAKE A ROUGH ESTIMATE—</p> <p>ABOUT HOW MANY ? A. IT WOULD BE GUESS WORK WITH ME, THERE WAS THIRTY OR FORTY,</p> <p>PROBABLY, MAY BE MORE, MAY BE LESS. Q. WHERE WERE THEY ? <sup>[479]</sup> A. IN OUR</p> <p>FIELD. Q. TELL US THE CIRCUMSTANCES ,HOW YOU CAME TO SEE THEM ? A. ON SUNDAY MORNING, I THINK IT WAS, WE GOT UP AND SAW CATTLE IN THE FIELD, WENT DOWN TO GET THE CATTLE OUT. WHEN WE FOUND THE INDIANS WAS IN THERE WE SAW THE GROUND AROUND THEIR CAMP WAS</p>	<p>NEAR AS CAN MAKING ROUGH ESTIMATE</p> <p>[space]</p> <p>{Q}<sup>i</sup> ABOUT HOW MANY {A}<sup>i</sup> IT WOULD BE GUESS WORK WITH ME, THERE WAS 30 OR 40 ABOUT {THERE}<sup>i</sup></p> <p>PROBABLY AND MAYBE MORE MAYBE LESS {Q}<sup>i</sup> WHERE WERE THEY A IN ≦ MY FATHER'S &gt; OUR FIELD Q TELL US CIRCUMSTANCE S HOW YOU CAME TO SEE {THEM}<sup>i</sup> ? {A}<sup>i</sup> ON SUNDAY MORNING I THINK IT WAS WE GOT UP {AND}<sup>i</sup> SAW CATTLE IN THE FIELD, WENT DOWN TO {GET THE}<sup>i</sup> CATTLE OUT WHEN WE FOUND INDIANS WAS IN THERE , WITH THEM GROUND AROUND THEIR CAMP WAS</p>	<p>NEAR AS YOU CAN. TRY AND REFRESH YOUR MEMORY,</p> <p>ABOUT HOW MANY? A. IT WOULD BE GUESS WORK WITH ME. THERE WAS 30 OR 40</p> <p>PROBABLY; MAY BE MORE, MAY BE LESS: Q. WHERE WERE THEY? A. IN MY FATHER'S FIELD. Q. TELL US THE CIRCUMSTANCE S; ,HOW YOU CAME TO SEE THEM? A. ON SUNDAY MORNING, I THINK IT WAS, WE GOT UP AND SAW CATTLE IN THE FIELD; WENT DOWN TO GET THE CATTLE OUT,— WHEN WE FOUND THE INDIANS WAS IN THERE, AND WE THOUGHT SAW THE GROUND AROUND THERE WAS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>COVERED WITH GUNS THEY HAD BROUGHT I SUPPOSED FROM THE MEADOWS.  Q. WHAT PART OF THE FIELD WERE THEY IN ?  A. WELL THEY CAMPED IN A KIND OF GRASSY PLACE, PROBABLY ONE THIRD OF THE WAY, SOUTH SIDE OF THE FIELD. Q. WAS IT FENCED IN ?  A. YES SIR. Q. HOW FAR FROM YOUR HOUSE WAS THIS ? A. IT IS PROBABLY THREE HUNDRED YARDS, PROBABLY FOUR.  Q. WHAT WERE THESE INDIANS AS TO SEX — MALES OR FEMALES ? A. WELL I GUESS THEY WAS BOTH, BUT MOSTLY MALE, THERE WAS SOME SQUAWS THERE. <del>THERE</del> I THINK</p>	<p>COVERED WITH GUNS THEY HAD BROUGHT I SUPPOSED FROM {THE}<sup>i</sup> MEADOWS  [space] {Q}<sup>i</sup>WHAT PART OF THE FIELD WERE THEY IN  {A}<sup>i</sup>WELL THEY WERE CAMPED IN A KIND OF GRASSY PLACE PROBABLY ONE THIRD OF THE WAY = SOUTH SIDE OF FIELD {Q}<sup>i</sup>WAS {IT}<sup>i</sup> FENCED IN  {A}<sup>i</sup>YES SIR {Q}<sup>i</sup>HOW FAR FROM YOUR HOUSE WAS THIS {A}<sup>i</sup>IT WAS PROBABLY THREE HUNDRED YARDS, PROBABLY 400 [space] {Q}<sup>i</sup>WHAT WERE THESE INDIANS AS TO SEX MALES OR FEMALES {A}<sup>i</sup>  WELL I GUESS THEY WAS BOTH, BUT MOSTLY MALE = THERE WAS SOME SQUAWS THERE I THINK</p>	<p>COVERED WITH GUNS, THEY HAD BROUGHT I SUPPOSE FROM THE MOUNTAIN MEADOWS.  Q: WHAT PART OF THE FIELD WERE THEY IN?  A. WELL, THEY WERE CAMPED IN A KIND OF A GRASSY PLACE, PROBABLY ONE THIRD OF THE WAY, <sup>[317]</sup> <b>TO THE SOUTH</b> SIDE OF THE FIELD. Q. WAS IT FENCED IN?  A. YES, SIR. Q. HOW FAR FROM YOU WAS THIS? A. IT WAS PROBABLY THREE HUNDRED YARDS, PROBABLY FOUR OF THEM.  Q. WHAT WERE THESE INDIANS AS TO SWEX, MALE OR FEMALE? A. WELL, I GUESS THEY WERE BOTH; BUT MOSTLY MALES. THERE WAS SOME SQUAWS THERE; I THOUGHT</p>	
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## RT

## RS

## BT

## PS

<p>THERE WAS, THERE GENERALLY IS, WHEN THEY STOP IN CAMP, BUT I COULD NOT SAY WHETHER THERE WAS OR NOT.  Q. HAD THEY WICKEUPS OR TENTS ? A. THEY HAD A KIND OF SHANTY RIG, DON'T KNOW EXACTLY HOW IT WAS RIGGED. THEY CAME IN THERE, STRUCK THAT PLACE THERE AND STOPPED FOR BREAKFAST OR SOMETHING.  Q. THEY WERE INSIDE OF THE FENCE OF THE FIELD ?  A. YES SIR.  Q. WHAT WAS IN THE FIELD AS TO CROPS OR ANYTHING OF THAT KIND ?  A. YES, THERE WAS CROPS, CORN CROPS AND POTATOES STILL IN THE FIELD. <sup>[480]</sup></p>	<p>THERE WAS, THEY GENERALLY ARE WHEN THEY STOP IN CAMP I COULD NOT SAY WHETHER THERE WAS OR WAS NOT [space] {Q}^i HAD THEY WICKIUPS TENTS A THEY HAD KIND OF SHANTY RIGGED; DON'T KNOW EXACTLY HOW IT WAS RIGGED. THEY CAME IN THERE STRUCK THERE TO STOP FOR BREAKFAST OR SOMETHING. [space] {Q}^i THEY WERE INSIDE FENCE OF {THE}^i FIELD {A}^i YES SIR. [space] WHAT WAS {Q}^i IN THE FIELD AS TO CROPS ANYTHING THAT KIND {A}^i YES THERE WAS CROPS {A}^i CORN CROPS , AND POTATOES STILL IN FIELD.</p>	<p>THERE WAS. THEY GENERALLY ARE WHEN THEY STOP IN CAMP <del>VA MP</del>; BUT I COULD NOT SAY WHETHER THERE WAS OR WAS <b>NOT</b>. <del>NOT</del> Q. HAD THEY WICKIUPS OR TENTS? A. THEY HAD A KIND OF SHANTY RIGGED, DON'T KNOW EXACTLY HOW IT WAS RIGGED. THEY CAMPED IN THERE; STRUCK A FIRE THERE TO START THE BREAKFAST OR SOMETHING. Q. THEY WERE INSIDE OF THE FENCE , OF THE FIELD. A. YES, SIR . Q. WHAT WAS IN THE FIELD AS TO CROPS OR ANYTHING <b>OF</b> <del>OG</del> THAT KIND? A. YES, THERE WAS CROPS; CORN CROPS AND POTATOES STILL IN THE FIELD.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>Q. DID YOU HAVE ANY CONVERSATION OR TRANSACTION WITH THEM ? A. I DID NOT. Q. HOW WERE THEY——</p> <p>A. NO MORE THAN TOLD THEM WE DIDN'T WANT THE STOCK IN THE FIELD. Q. DID THEY TURN IT OUT ? A. YES SIR. Q. WHAT STOCK DID THEY HAVE — WHAT KIND OF STOCK ? A. CATTLE. Q. HAVE YOU ANY KNOWLEDGE OF WHERE THE CATTLE CAME FROM ? A. I HAVE NOT, TO KNOW IT. Q.</p> <p>WHAT KIND OF CATTLE MOSTLY WERE THEY ? A. THESE TEXAS CATTLE OR ARKANSAS. Q.</p> <p>WORK CATTLE OR</p>	<p>{Q} DID YOU HAVE ANY CONVERSATION OR CONTACTS WITH THEM {A} I DID NOT. Q HOW WERE THEY &lt;FRIENDLY OR&gt; OTHERWISE A NO MORE THAN WE TOLD THEM WE DIDN'T WANT THE STOCK IN THE FIELD. {Q} DID THEY TURN IT OUT {A} YES SIR {Q} WHAT STOCK DID THEY HAVE , WHAT KIND OF STOCK {A} CATTLE {Q} HAVE YOU ANY KNOWLEDGE OF &lt;AS TO&gt; WHERE THEM CATTLE CAME FROM A I HAVE NOT Q <del>TO/BUT</del> DO YOU KNOW <sup>[19]</sup> WHAT KIND OF CATTLE WERE THEY A MOSTLY THESE TEXAS CATTLE OR ARKANSAS {Q} WORK CATTLE OR</p>	<p>Q. DID YOU HAVE ANY CONVERSATION OR TALKES WITH THEM? A. I DID NOT. Q. HOW WERE THEY, FRIENDLY OR OTHERWISE? A. NO, MORE THAN I <b>TOLD</b> <del>TOLD</del> YOU. WE DIDN'T WANT THEIR STOCK IN THAT FIELD. Q. DID THEY TURN IT OUT? A. YES, SIR. Q. WHAT STOCK DID THEY HAVE; WHAT KIND OF STOCK? A. CATTLE. Q. HAVE YOU ANY KNOWLEDGE AS T O WHERE <b>THOSE THEM</b> CATTLE CAME FROM? A. I HAVE NOT. Q. DO YOU KNOW WHAT KIND OF CATTLE THEY WERE? A. MOSTLY THESE TEXAS CATTLE OR ARKANSAS . Q. WHAT KIND OF CATTLE? WORK CATTLE OR</p>	
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## RT

## RS

## BT

## PS

<p>STOCK CATTLE ? A. I DIDN'T GO CLOSE TO THEM. Q. AND WHAT OTHER ARTICLES THEY HAD DID YOU NOTICE THEM—THESE OTHER ARTICLES ? A. NO SIR. Q. DID YOU NOTICE HOW THEY WERE KEEPING</p> <p>THEM ? A. THEY HAD THEM KIND OF THROWN OUT TO DRIVE, SOME ON THE GROUND, SOME ON THE BUSHES. Q. AS TO THE QUANTITY, HOW LARGE OR HOW MUCH WAS THERE OF THEM ? A. I COULD NOT SAY I AM SURE; THERE WAS QUITE A LOT OF IT. Q. WHAT DID IT MOSTLY CONSIST OF ? A. I DIDN'T NOTICE, COULD NOT SAY EXACTLY, I SUPPOSE IT WAS</p>	<p>STOCK CATTLE A I DIDN'T GO CLOSE TO THEM [space] {Q}<sup>i</sup>AND WHAT OTHER ARTICLES THEY HAD DID YOU NOTICE THEM THOSE OTHER ARTICLES {A}<sup>i</sup> NO SIR [space] {Q}<sup>i</sup>DID YOU NOTICE HOW WERE THEY KEEPING</p> <p>THEM {A}<sup>i</sup>THEY HAD THEM KIND OF THROWN OUT TO DRY , SOME ON {THE}<sup>i</sup> GROUND SOME ON {THE}<sup>i</sup> BUSHES {Q}<sup>i</sup>AS TO THE QUANTITY HOW MUCH WAS THERE OF THEM {A}<sup>i</sup>I COULD NOT SAY I AM SURE , THERE WAS QUITE A LOT OF IT. {Q}<sup>i</sup>WHAT DID IT MOSTLY CONSIST OF {A}<sup>i</sup>I DIDN'T NOTICE, COULD NOT SAY EXACTLY, I SUPPOSE IT WAS</p>	<p>STOCK CATTLE? A. I DIDN'T GO CLOSE TO THEM. Q. WHAT</p> <p>ARTICLEDS THEY HAD, DID YOU NOTICE THEM, THESE OTHER ARTICLES? A. NO, SIR. Q. DID YOU HAV NOTICE HOW THEY WERE <b>KEEPING</b> <del>KEEPING</del> THEM? A. THEY HAD <sup>[318]</sup> THEM KIND OF THROWN OUT TO DRY; SOME ON THE GROUND , SOME ON THE BUSHES. Q. AS TO QUAANTITY, HOW MUCH WAS <b>THERE THEY</b> OF THEM? A. I COULD NOT SAY, I AM SURE, THERE WAS QUITE A LOT OF IT. WHAT DID IT MOSTLY CONSIST OF? A. I DIDN'T NOTICE; COULD NOT SAY EXACTLY. I SUPPOSED IT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>CLOTHING OF ALL KINDS. I SEEN COATS,PANTS AND SHIRTS. I SUPPOSE IT WAS ALL THE <sup>[481]</sup> SAME. Q. ANY BLANKETS OR HATS ? A. I DON'T RECOLLECT ANYTHING OF THAT KIND. Q. WERE THESE INDIANS AT THE TIME DECORATED IN ANY WAY OR PARTICULAR STYLE,IF SO HOW ? A. THEY WERE,SOME OF THEM MIGHT HAVE A LITTLE BLACK ON THEIR FACES.</p> <p>Q. YOU SAY YOU WERE ACQUAINTED WITH THE INDIANS IN THAT NEIGHBORHOOD A. I WAS ACQUAINTED WITH THOSE WHO OWNED CLAIMS ON THAT CREEK. Q. WERE THESE</p>	<p>CLOTHING OF ALL KINDS , I SEEN COATS AND PANTS AND SHIRTS I SUPPOSED IT WAS ALL SAME {q}<sup>i</sup> ANY BLANKETS OR HATS {a}<sup>i</sup> DON'T RECOLLECT ANYTHING OF THAT KIND. [space] WERE THESE INDIANS AT THE TIME DECORATED IN ANY WAY , ANY PARTICULAR STYLE, IF SO HOW ? A THEY WERE NOT, SOME OF THEM MIGHT HAVE A LITTLE BLACK ON THEIR FACES BUT THAT IS ALL {q}<sup>i</sup> YOU SAY YOU WERE ACQUAINTED WITH THE INDIANS IN THAT NEIGHBORHOOD S {a}<sup>i</sup> I WAS ACQUAINTED WITH THOSE WHO OWNED CLAIMS ON THAT CREEK {q}<sup>i</sup> WERE THESE</p>	<p>WAS CLOTHING OF ALL KINDS. I SEEN COATS/, PANTS AND SHIRTS, I SUPPOSED IT WAS ALL THE SAME. Q . WERE THERE ANY BLANKETS OR HATS? A. I DON'T RECOLLECT ANYTHING OF THAT KIND. Q. WERE THESE INDIANS AT THE TIME DECORATED IN ANY WAY; ANY PARTICULAR STYLE; IF SO, HOW? A. THEY WERE. SOME OF THEM MIGHT HAVE A LITTLE BLACK ON THEIR FACES, THAT IS ABOUT ALL. Q. YOU SAY YOU ARE ACQUAINTED WITH THE INDIANS IN THAT NEIGHBORHOOD ? A. I WAS ACQUAINTED WITH THOSE WHO OWNED CLAIMS ON THAT CREEK . Q. WERE THESE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THE SAME INDIANS ?</p> <p>A. I DIDN'T SEE THEM, THOSE WERE OLD MEN, CLAIMED TO BELONG TO THE CREEK I DIDN'T KNOW WHERE THOSE INDIANS BELONGED; I HAVE SEEN SOME OF THEM AT CEDAR. Q. WERE THE INDIANS IN ANY TROUBLE AS TO SICKNESS, WOUNDS OR ANYTHING OF THAT KIND ? A. I THINK THERE WAS A COUPLE OF WOUNDED INDIANS. Q. DID YOU NOTICE—CAN YOU TELL US ANYTHING ABOUT HOW MUCH STOCK THEY HAD ? A. I CANNOT, BECAUSE THE STOCK, RUNNING STOCK, WAS ALL RUNNING AROUND ON THE RANGE</p>	<p>SAME INDIANS <math>\Leftarrow</math>OR SOME OF THEM<math>\Rightarrow</math> {A}<sup>i</sup> DIDN'T SEE THEM {A}<sup>i</sup> THESE WERE OLD MEN CLAIMED TO BELONG TO {THE}<sup>i</sup> CREEK. I DIDN'T KNOW WHERE THESE INDIANS BELONGED , BUT I HAVE SEEN SOME OF THEM AT CEDAR. {Q}<sup>i</sup> WERE THE INDIANS IN ANY TROUBLE AS TO SICKNESS, WOUNDS {OR}<sup>i</sup> ANYTHING {OF}<sup>i</sup> THAT KIND A I THINK THERE WAS COUPLE WOUNDED INDIANS. {Q}<sup>i</sup> DID YOU NOTICE = CAN YOU TELL US ANYTHING ABOUT HOW MUCH STOCK THEY HAD {A}<sup>i</sup> I CANNOT, BECAUSE THE STOCK {=}<sup>i</sup> RUNNING STOCK WAS ALL RUNNING AROUND ON RANGE,</p>	<p>THE SAME INDIANS, OR SOME OF THE INDIANS? A. I DIDN'T SEE THEM. THESE WERE OLD MEN THAT CLAIMED TO BELONG TO THE CREEK; I DIDN'T KNOW WHERE THESE INDIANS BELONGED; BUT I HAVE SEEN <del>Ø</del>SOME OF THEM AT CREDAR. Q. WERE THE INDIANS IN ANY TROUBLE AS TO SICKNESS, <del>Ø</del>WOUNDS OR ANYTHING OF THA T KINE? A. I THINK THERE WAS A COUPLE OF INDIANS WOUNDED. Q. DID YOU NOTICE—CAN YOU TELL US ANYTHING ABOUT HOW MUCH STOCK THEY HAD? A. I CANNOT; BECAUSE THE STOCK <del>RUNNING</del> <del>STOCK</del>, WAS OFF RUNNING AROUND ON THE RANGE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THERE. I COULD NOT TELL ANYTHING ABOUT HOW MUCH THEY HAD OR HOW LITTLE.  Q. WHAT CONDITION WAS THIS CLOTHING IN YOU SAW TOGETHER ?  A. IT WAS STAINED WITH BLOOD.  Q. CAN YOU TELL WHETHER IT WAS ALL MALE OR FEMALE ATTIRE ? A. I COULD NOT TELL YOU, I SAW COATS, PANTS AND SHIRTS Q. IN RELATION TO THIS COW, YOU SAY THEY DIDN'T FIND IT ?  <sup>[482]</sup> A. NO SIR. Q. WAS ANY EFFORTS MADE TO FIND IT IF SO WHAT ? A. THEY HUNTED FOR HER THAT EVENING, IT WAS ABOUT FOUR O'CLOCK. WHEN THEY CAME THERE</p>	<p>THERE. I COULD NOT TELL ANYTHING ABOUT HOW MUCH THEY HAD OR HOW LITTLE ~ <i>[space]</i>  Q WHAT CONDITION WAS THIS CLOTHING IN YOU SAW TOGETHER  {A} IT WAS STAINED WITH BLOOD ~  {Q} CAN YOU TELL WHETHER IT WAS ALL MALE OR FEMALE ATTIRE {A} I COULD NOT TELL YOU, I SAW COATS, PANTS AND SHIRTS. {Q} IN RELATION TO THIS COW, YOU SAY THEY DIDN'T FIND IT  {A} NO SIR Q WAS ANY EFFORTS MADE TO FIND IT, IF SO WHAT {A} THEY HUNTED FOR HER THAT EVENING ; IT WAS ABOUT 4 O'CLOCK, WHEN THEY CAME THERE ,</p>	<p>THERE; I COULD NOT TELL ANYTHING ABOUT HOW MUCH THEY HAD, OR HOW LITTLE.  Q. WHAT CONDITION WAS THIS CLOTHING IN THAT YOU SAW TOGETHER THERE? A. IT WAS STAINED WITH BLOOD .  Q. CAN YOU TELL WHETHER IT WAS ALL MAIL OR FEMALE ATTIRE? A I COULD NOT TELL YOU ; I SAW COATS, PANTS , SHIRTS. <sup>[319]</sup> Q. IN RELATION TO THIS COW, YOU SAY THEY DIDN'T FIND IT?  A. N , NO, SIR. Q. WAS ANY EFFORTS MADE TO FIND IT, IF SO WHAT ? A. THEY HUNTED FOR HER THAT EVENING; IT WAS ABOUT FOUR O'CLOCK WHEN THEY CAMPED THERE.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THE NEXT MORNING THEY CAME BACK AND MY BROTHER HELPED THEM TO HUNT THAT DAY I DIDN'T HELP THEM TO HUNT, THEY DIDN'T FIND THE COW; MEN WANTED TO KNOW IF WE HAD ANYTHING TO TRADE FOR HER MY BROTHER SAID THERE IS A STEER EIGHTEEN MONTHS OLD, YOU CAN HAVE HIM.</p> <p>CROSS-EXAMINATION.</p> <p>Q. ABOUT HOW MANY CATTLE HAD THESE EMIGRANTS ? A. THEY HAD A PRETTY LARGE HERD. Q. YOU CAN'T TELL WHETHER THEY HAD FOUR</p>	<p>NEXT MORNING THEY CAME BACK , MY BROTHER HELPED THEM HUNT THAT DAY. I DIDN'T HELP THEM <sup>[20]</sup> TO HUNT. THEY DIDN'T FIND COW. MEN WANTED TO KNOW IF WE {HAD}<sup>i</sup> ANYTHING TO TRADE FOR HER &lt;MY BROTHER SAID&gt; THERE IS STEER 18 MONTHS OLD YOU CAN HAVE HIM &lt;FOR HER&gt;. BY DEFENSE TO THE PROSECUTION YOU CAN TAKE WITNESS {<b>CROSS EXAMINATION</b>}<sup>i</sup></p> <p>{q}<sup>i</sup> ABOUT HOW MANY CATTLE HAD THESE EMIGRANTS {A}<sup>i</sup> THEY HAD PRETTY LARGE HERD {q}<sup>i</sup> YOU CAN'T TELL WHETHER THEY HAD FOUR</p>	<p>THE NEXT MORNING THEY CAME BACK AND MY BROTHER HELPED THEM TO HUNT THAT DAY. I DIDN'T HELP THEM TO HUNT. THEY DIDN'T FIND THE COW. THE MEN WANTED TO KNOW IF THEY HAD ANYTHING TO TRADE FOR HER. MY BROTHER SAID THERE IS A STEER 18 MONTHS OLD, YOU CAN HAVE HIM FOR HER .</p> <p>CROSS - EXAMINATION OF JOHN MAMILTON , JR. BY BASKIN: Q . ABOUT HOW MANY CATTLE HAD THESE EMIGRANTS? A. THEY HAD A PRETTY LARGE HERD . Q. YOU CAN TELL WHETHER THEY HAD 400</p>	
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**RT**

**RS**

**BT**

**PS**

<p>HUNDRED OR FIVE HUNDRED ,MORE OR LESS ? A. I THINK THEY HAD FAR ON TO FIVE HUNDRED, BUT I COULD NOT SAY. THEY HAD SOME HORSES. Q. HOW MANY HEAD ? A. I DON'T KNOW. Q. WERE ALL THEIR CATTLE WORK CATTLE ? A. I THINK THEY HAD A BAND OF CATTLE. [space]</p> <p>[483] RICHARD ROBISON, SWORN FOR DEFENDANT.</p> <p>Q. WHERE DO YOU LIVE MR. ROBISON ? A. AT PINTO CREEK. Q. HOW LONG HAVE YOU LIVED THERE ? A. SINCE THE YEAR 1856 I</p>	<p>HUNDRED 5 HUNDRED MORE OR LESS {A}^i I THINK THEY HAD FOUR OR 500, I COULD NOT SAY , AND THEY HAD SOME HORSES. {Q}^i HOW MANY HEAD {A}^i I DON'T KNOW {Q}^i WERE ALL THEIR CATTLE WORK CATTLE {A}^i I THINK THEY HAD {A}^i BAND OF LOOSE CATTLE. BY BASKIN THAT IS ALL BY COURT CALL THE NEXT WITNESS. [space] <b>RICHARD S ROBISON PINTO</b> OATH ADMINISTERED BY CLERK [space]</p> <p>Q WHERE DO YOU LIVE MR. ROBISON A AT PINTO CREEK Q HOW LONG HAVE YOU LIVED THERE A SINCE YEAR 1856 I</p>	<p>OR 500 HUNDERED MORE OR LESS A. I THINK THEY HAD FOUR OR FICVE HUNDRED, I COULD NOT SAY AND THEY HAD SOME HORSES. Q. HOW MANY HEAD? A. I DON'T KNOW. Q. WERE ALL THEIR CATTLE WORK CATTLE? A. I THINK THEY HAD A BAND OF LOOSE CATTLE. THAT IS ALL.</p> <p>RICHARD S. ROBINSON BEING CALLED AS A WITNESS ON ON THE PART OF THE DEFENSE WAS EXAMINED AS FOLLOWS BY <del>MR.</del> <del>SUTHERLAND:</del> Q. WHERE DO YOU LIVE , MR. ROBINSON-2,? A. PINTO CREEK. Q. HOW LONG HAVE YOU LIVED THER3E ? A SINCE THE YEAR '56, I</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THINK. Q. HOW LARGE A SETTLEMENT WAS THERE IN 1857 ? A. I DON'T</p> <p>REMEMBER</p> <p>MORE THAN FOUR FAMILIES. Q. HOW MANY ABLE BODIED MEN ALTOGETHER ALL TOGETHER ? A. ABOUT SIX . I THINK THERE WAS TWO MEN LIVED THERE WHO HAD NO FAMILIES—SIX MEN. Q. DO YOU RECOLLECT AN EMIGRANT TRAIN PASSING THROUGH THERE THE FORE PART OF SEPTEMBER 1857 ? A. I RECOLLECT OF HEARING OF THEM PASSING THROUGH. I WAS ABSENT AT THE TIME. Q. WHEN YOU SPOKE AS TO THE NUMBER OF PERSONS DID YOU HAVE</p>	<p>THINK QHOW LARGE SETTLEMENT WAS THERE IN 1857 ? A I DON'T PERFECTLY REMEMBER ≠NOT≠ MORE THAN 4 FAMILIES QHOW MANY ABLE BODIED MEN ALTOGETHER?  AABOUT 6, I THINK THERE WAS TWO MEN LIVED THERE WHO HAD NO FAMILIES THOSE TWO MEN {Q}<sup>i</sup> DO YOU RECOLLECT EMIGRANT TRAIN PASSING THROUGH THERE FORE PART OF SEPTEMBER 1857 {A}<sup>i</sup>I RECOLLECT OF HEARING OF THEM PASSING THROUGH [space] {A}<sup>i</sup>I WAS ABSENT AT THE TIME {Q}<sup>i</sup> WHEN YOU SPOKE NUMBER OF PERSONS , DID YOU HAVE</p>	<p>THINK . Q. HOW LAGRE A SEETTLEMENT WAS THERE THERE IN I857? A. I DON'T</p> <p>REMEMBER; PROBABLY NOT MORE THAN FOUR FAMILIES. [320] Q. HOW MANY ABLE BODIED MEN ALTOGETHER?  A. ABOUT SIX. I THINK THERE WAS TWO MEN LIVED THERE THA T HAD NO FAMILIES. Q. DO YOU RECOLLECT THE EMIGRANT TRAIN PASSING THROUGH THERE THE FORE PART OF SEPTEMBER , I857? A. I RECOLLECT OF HEARING OF THEM PASSING THROUGH . I WAS ABŁSENT AT THE TIME. Q. WHEN YOU SPOKE OF THE NUMBER OF PERSONS, DID YOU HAVE</p>	
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**RT****RS****BT****PS**

<p>REFERENCE TOT HE YEAR BEFORE OR '57 ? A. '57. Q. WERE THESE PERSONS ALL AT HOME IN 1857 WHEN THIS TRAIN PASSED THROUGH ? A. NO SIR. Q. HOW MANY WERE THERE ? A. THERE WAS TWO THAT WERE ABSENT THAT I REMEMBER OF. Q. WHERE WERE THEY ABSENT, AS FAR AS YOU KNOW ? A. ONE WAS IN PAROWAN HARVESTING, I DON'T KNOW WHETHER THE OTHER WAS OR NOT, I RATHER THINK HE WAS. [484]</p> <p>Q. DO YOU KNOW JOEL WHITE ? A. YES SIR. Q. DO YOU KNOW PHILIP KLINGENSMITH ? A. YES SIR. Q.</p>	<p>REFERENCE TO {THE}<sup>i</sup> YEAR BEFORE OR '57 ? {A}<sup>i</sup>'57 [space] {Q}<sup>i</sup>WERE THESE PERSONS ALL AT HOME IN 1857 WHEN THIS TRAIN PASSED THROUGH {A}<sup>i</sup> NO SIR {Q}<sup>i</sup>HOW MANY WERE THERE {A}<sup>i</sup> THERE WAS TWO THAT {WERE}<sup>i</sup> ABSENT I REMEMBER OF {Q}<sup>i</sup>WHERE WERE THE ABSENT ONES SO FAR AS YOU KNOW {A}<sup>i</sup>ONE WAS IN PAROWAN HARVESTING, I DON'T KNOW WHETHER {THE}<sup>i</sup> OTHER WAS OR NOT I RATHER THEN THINK HE WAS ≠NOT AT HOME NO HE WAS NOT AT HOME NO AHE WAS NOT&gt;. {Q}<sup>i</sup>DID YOU KNOW JOEL WHITE {A}<sup>i</sup> YES SIR {Q}<sup>i</sup>DID YOU KNOW PHILIP KLINGENSMITH {A}<sup>i</sup>YES SIR {Q}<sup>i</sup></p>	<p>REFERENCE TO THE YEAR BEFORE OR '57? A. '57 . Q. WERE THESSE PERSONS ALL A≠T HOME IN '57, WHEN THIS TRAIN PASSED THROUGH? A. NO, SIR . Q. HOW MANY WERE THERE? A. THERE WAS TWO  ABSENT THAT I REMEMBER OF. Q. WHERE WERE THE ABSENT ONES SO FAR AS YOU KNOW ? A. ONE WAS IN PAROWAN HARVESTING. I DON'T KNOW WHETHER THE OTHER ONE WAS OR NOT. Q . THEN HE WAS NOT AT HOME? A NO ,SHE WAS NOT.  Q. DO YOU KNOW JOEL WHITE? A. YES, SIR. Q. DO YOU KNOW PHILIP KLINGENSMITH? A. YES, SIR. Q.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>STATE          WHETHER IN          THE FORE PART          OF SEPTEMBER          1857 ? YOU          SAW THEM AT          PINTO — JUST          BEFORE THIS          TRAIN PASSED          THROUGH ?          A. I DON'T          REMEMBER          SEEING THEM.          Q. WHAT DO          YOU SAY TO          THEIR HAVING          DELIVERED          YOU          OR          ONE OF THEM A          LETTER          BROUGHT BY          THEM FROM          CEDAR,          PURPORTING TO          COME FROM          CEDAR AT THAT          TIME ? A. I          DON'T          REMEMBER          SUCH A          CIRCUMSTANCE.          Q. DID          YOU SEE A          LETTER ABOUT          THAT TIME          A LITTLE AFTER          THIS COMPANY          HAD PASSED          THROUGH          FROM HAIGHT          TO LEE ?          A. YES SIR.          DEFENSE:</p>	<p>STATE          WHETHER IN          FORE PART          OF SEPTEMBER          1857 {Q}^i YOU          SAW THEM AT          PINTO &lt;JUST&gt;          BEFORE THIS          TRAIN PASSED          THROUGH          {A}^i I DON'T          REMEMBER          SEEING THEM          {Q}^i WHAT DO          YOU SAY TO          THEIR HAVING          DELIVERED          YOU          OR          ONE OF THEM A          LETTER ,          BROUGHT BY          THEM FROM          CEDAR CITY, OR          PURPORTING TO          COME FROM          CEDAR AT THAT          TIME {A}^i I          DON'T          REMEMBER          SUCH A          CIRCUMSTANCE.          [space] Q DID          YOU SEE A          LETTER ABOUT          THAT TIME, OR          A LITTLE AFTER          THIS COMPANY          HAD PASSED          {THROUGH}^i ,          FROM HAIGHT          TO LEE ? {A}^i YES          SIR. [space]          {COUNSEL FOR</p>	<p>STATE  <b>WHETHER IN</b>          THE FORE PART          OF SEPTEMBER,          '57, YOU          SAW THEM AT          PINTO JUST          BEFORE YOU          SAW THIS TRAIN          PASS THROUGH?          A. I DON'T          REMEMBER          SEEING THEM.          Q. WHAT DO          YOU SAY TO          THEIR HAVIN<b>FG</b>  <b>DELIVERED TO</b>  <b>YOU AN</b>  <b>INTERVIEW</b> OR          ON E OF THEM A          LETTER          BROUGHT BY          THEM <b>BY FROM</b>          CEDAR CITY OR          PERPORTING TO          COME FROM          CEDAR AT THE          ATIME? A. I          DON'T          REMEMBER          SUCH A          CIRCUMSTANCE.          Q. DID          YOU SEE A          LETTER ABOUT          THAT T IME OR          A LITTLE AFTER  <b>THIS</b> COMPANY          HAD PASSED          THROUGH          FROM HAIGHT          TO LEE?          A. YES, SIR.          SUTHERLAND:</p>	
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**RT**

**RS**

**BT**

**PS**

<p>I PROPOSE TO ASK THIS WITNESS THE CONTENTS OF THAT LETTER. PROSECUTION: WE OBJECT. BASKIN: THE QUESTION IS PENDING FOR THE PURPOSE OF ANY DISCUSSION. IT IS THE SECOND QUESTION WHICH CAME UP WHEN A PREVIOUS WITNESS WAS ON THE STAND. SUTHERLAND: THE LETTER WAS OPEN LETTER FROM HAIGHT TO LEE AND IN TRANSIT TO HIM. WAS WRITTEN AT THE TIME THE EMIGRANTS <del>WAS</del> WERE AT THE  MEADOWS, <del>I</del> AS I AM INFORMED. BASKIN: IT WAS THE SAME QUESTION THAT WAS UP WHEN WE HAD</p>	<p><b>DEF}</b><sup>1</sup> I PROPOSE TO ASK THIS WITNESS {THE}<sup>1</sup> CONTENTS OF THAT LETTER. PROSECUTION WE OBJECT [<i>space</i>] QUESTION BE PENDING FOR THE PURPOSE OF ANY DISCUSSION <sup>[21]</sup> BASKIN IT IS THE SECOND QUESTION WHICH CAME UP WHEN WE HAD WHAT'S HIS NAME {BE}<sup>i</sup> ? SUTHERLAND. LETTER WAS {AN}<sup>i</sup> OPEN LETTER FROM HAIGHT TO LEE IN TRANSIT TO HIM WAS WRITTEN AT THE TIME THE EMIGRANTS WERE AT THE  MEADOWS AS I AM INFORMED. BASKIN IT WAS SAME QUESTION THAT WAS UP WHEN WE HAD, ≤SOME DISCUSSION</p>	<p>WE PROPOSE NOW TO ASK THE WITNESS FOR THE CONTENTS OF THAT LETTER. BASKIN: WE OBJECT TO THE CONTENTS OF THE LETTER.  IT IS THE SECOND QUESTION WHICH CAME UP WHEN WE ASKED WHAT HIS NAME WAS.  SUTHERLAND: THE LETTER WAS AN OPEN LETTER FROM HAIGHT TO LEE, AND IN TRANSIT; TO WHOM IT WAS WRITTEN AT THE TIME THE EMIGRANTS WERE AT THE MOUNTAIN MEADOWS, AS I AM INFORMED. <sup>[321]</sup> BASKIN: IT WAS <del>OME</del>-THE SAME QUESTION THAT WAS UP WHEN WE HAD SOME DISCUSSION,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>MR. THOMPSON ON THE STAND AND MRS. HOGE. <sup>[485]</sup> COURT: ASK THE QUESTION AGAIN ABOUT THE LETTER. SUTHERLAND: WITNESS SAID HE SAW A LETTER PURPORTING TO HAVE BEEN WRITTEN BY ISAAC C. HAIGHT TO JOHN D. LEE AFTER THE EMIGRANT PARTY HAD PASSED PINTO, AND I NOW ASK HIM TO STATE THE CONTENTS OF THAT LETTER. BASKIN: † AND THAT IS THE POINT WE OBJECT <del>THE</del> TO.</p> <p>WHEN MR. THOMPSON WAS ON THE STAND HE WAS ASKED THE</p>	<p>AND WHEN ⇒ MR. THOMPSON ON THE STAND AND MRS. HOGE BY COURT ASK THE QUESTION AGAIN ABOUT LETTER <i>[space]</i></p> <p>WITNESS SAID HE SAW A LETTER PURPORTING TO HAVE BEEN WRITTEN BY ISAAC C HAIGHT TO D. LEE AFTER THE EMIGRANT PARTY HAD PASSED PINTO, AND I NOW ASK HIM STATE THE CONTENTS OF THAT LETTER? BASKIN THAT IS THE POINT WE OBJECT TO WHAT IS YOUR GROUNDS OF</p> <p>OBJECTION, YOU WILL REMEMBER MR. THOMPSON WHEN HE WAS ON {THE} <sup>i</sup> STAND WAS ASKED</p>	<p>AND WHEN MR. THOMPSON WAS ON THE STAND <del>AND MRS. HOGE.</del> &amp; MRS HOGE. THE COURT: ASK THE QUESTION AGAIN: ABOUT THE LETTER: SUTHERLAND: WITNESS STATED HE SAW A LETTER PERPORTING TO HAVE BEEN WRITTED BY ISAAC C. HAIGHT TO JOHN D. LEE, AFTER THE EMIGRANTS HAD PASSED PINTO, AND I NOW ASK HIM TO STATE THE CONTENTS OF THAT LETTER. BASKIN: THAT IS THE POINT WE OBJECT TO. THAT IS THE GROUNDS OF OUR OBJECTION. YOU REMEMBER MR. THOMPASON WHEN HE WAS ON THE STAND WAS ASKED</p>	
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**RT**

**RS**

**BT**

**PS**

<p>SAME QUESTION.</p> <p>SUTHERLAND: I THINK IF YOU WILL PERMIT JOHN D. LEE TO BE SWORN AS TO THE ORIGINAL HE WILL SWEAR AS TO THE CONTENTS.</p>	<p>THE SAME QUESTION I WAS IN DOUBT WHETHER WE COULD PROVE CONTENTS OF IT [<i>space</i>] CASE WAS HELD OVER FOR INVESTIGATION OF QUESTION I CAME CONCLUSION WE COULD NOT DO IT AND THEREFORE IT PASSED AWAY I WILL REFER YOUR HONOR TO AUTHORITY ON IT.</p> <p>SUTHERLAND I THINK IF YOU WILL PERMIT JOHN D LEE TO BE SWORN AS TO ORIGINAL HE WILL SWEAR TO IT AND ITS CONTENTS = [<i>space</i>] A PARTY OUGHT NOT TO BE SWORN WHEN WHEN HE WAS NOT COMPETENT WITNESS TO TESTIFY LAWS OF PRIMARY EVIDENCE IN ORDER TO LAY</p>	<p>THE SAME QUESTION. I WAS IN DOUBT WHETHER WE COULD PROVE THE CONTENTS OF IT, AND IT WAS HELD O<del>V</del>VER FOR THE INVESTIGATION OF THE QUESTION, AND I CAME TO THE CONCLUSION WE COULD NOT DO IT, THEREFORE IF PASSED AWAY; AND I WILL REFER YOUR HONOR TO THE AUTHORITY ON IT..</p> <p>SUTHERLAND: I THINK IF YOU WILL PERMIT JOHND. LEE TO BE SWORN AS TO THE ORIGINAL, HE WILL SWEAR TO IT AND ITS CONTENTS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>AFTER FURTHER ARGUMENT BETWEEN COUNSEL THE COURT ASKED IF THEY HAD ANY AUTHORITIES</p> <p>ON THE SUBJECT. SUTHERLAND</p> <p>READ</p> <p>FROM PAGE 517 PHILIPS ON EVIDENCE AS RELEVANT TO THE POINT IN THE CASE WHEN</p> <p>THE COURT SAID THAT IS THE RULE IN CIVIL CASES. SUTHERLAND: ARGUED THAT THE RULE WAS</p>	<p>ANY SECONDARY A WITNESS HOWEVER INCOMPETENT FOR PROOF <math>\leq</math>IN THAT INSTANCE<math>\geq</math> IS ALSO NOT COMPETENT FOR EVIDENCE?</p> <p>BY COURT</p> <p>HAVE YOU ANY AUTHORITIES YOU CAN REFER ME TO ON THAT QUESTION? SUTHERLAND I WILL READ</p> <p>FROM NOTE PAGE 517 PHILIPS ON EVIDENCE DESCRIPTIVE OF GENERAL RULE POINT IS PERENNIAL AND IN FACT SHALL BE TRIED BY JURY BY COURT THAT IS THE RULE IN CIVIL CASES [space] SUTHERLAND</p> <p>RULE IS</p>	<p>THE COURT:</p> <p>HAVE YOU ANY AUTHORITIES THAT YOU CAN REFER ME TO ON THAT QUESTION? SUTHERLAND: YES; I WILL READ TO YOUR HONOR NOW, FROM PAGE 515, PHILIPS ON EVIDENCE. ( READ AND ARGUED)</p> <p>THE COURT: THAT IS THE RULE IN CIVIL CASES. SUTHERLAND:</p> <p>THE RULE IS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>ONE AND THE SAME IN CIVIL AND CRIMINAL CASES AS TO THE FACTS TO BE TRIED BY A JURY. THE REASON OF THE RULE IS THE SAME, OTHERWISE</p> <p>DEFENDANT MIGHT BE DEPRIVED OF SECONDARY EVIDENCE FOR THE REASON THAT HE WOULD BE UNABLE TO SHOW THE REASON OF THE RESULT.</p> <p>BASKIN: THE PROSECUTION FOLLOWED JUDGE SUTHERLAND, ARGUING AS TO THE RELEVANCY OF THE QUESTION.  <del>HOGG:</del>        TO WHICH HOGG RESPONDED AND ASKED THAT LEE</p>	<p>ONE AND THE SAME IN CRIMINAL CASES AS TO FACTS TO BE TRIED BY JURY. REASON IS OF RULE IS THE SAME, OTHERWISE</p> <p>DEFENDANT MAY BE DEPRIVED OF SECONDARY EVIDENCE, FOR REASON HE WOULD NOT BE UNABLE TO SHOW NECESSARY SITUATION        &lt;COMPELLING&gt;        RESORT TO</p> <p>SECONDARY EVIDENCE</p>	<p>THE SAME IN CRIMINAL CASES AS TO THE FACTS TO BE TRIED BY THE JURY. THE REASON OF THE RULE IS THE SAME OTHERWISE THE DEFENDANT MIGHT BE DEPRIVED OF SECONDARY EVIDENCE FOR THE REASON HE WOULD BE UNABLE TO SHOW THE REASONS</p> <p>COMPELLING THE RESULT, THAT OF SECONDARY EVIDENCE?        ARGUED BY COUNSEL ON BOTH SIDES.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>BE PUT ON THE STAND TO SWEAR TO THE CONTENTS OF THAT LETTER, AND AS TO ITS GENUINENESS.</p>	<p>SUTHERLAND I <del>DO NOT KNOW</del> I DO NOT SEE ANYTHING IN THIS NOTE THAT REFERS ESPECIALLY TO CRIMINAL CASES MY RECOLLECTION IS THE SAME REASON READING IN BISHOP RULES ARE SET TO BE THE SAME EXCEPT WHERE THEY ARE VARIED BY SOME SPECIAL CIRCUMSTANCE S WE ARE TO <i>GO/COME[?]</i> TO OTHER CASES AND BY STATUTE PERSONS MIGHT TESTIFY IN CIVIL CASES WITH VERY FEW EXCEPTIONS THERE IN <del>CRIMINAL</del> &lt;CIVIL&gt; CASES ARE GOVERNED BY SAME RULES AS IN CRIMINAL</p>		
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**RT**

**RS**

**BT**

**PS**

	<p>CASES. BASKIN MAY IT PLEASE YOUR HONOR THAT RULE <i>SAY/WAS[?]</i> AND IT IS NOT FOR ANY REASON AND I SHALL SPEAK ABOUT IT AND <del>IF</del> IF IT IS THAT CRIMINAL CAN TESTIFY IN CASE PERSON <sup>[22]</sup> CHARGED WITH CRIME IN THIS QUESTION <i>HERE</i> FALLS THERE FOLLOWS AUTHORITIES <i>[space]</i> LET'S LOOK AT THE <i>[space]</i> THIS CASE AS IT NOW STANDS BEFORE YOUR HONOR IT DON'T APPEAR THIS LETTER EVER REACHED JOHN D. LEE'S HAND NOTHING OF THAT SORT IS SHOWN <i>[space]</i> IT PROVES IN SOME INDEFINITE MANNER LETTER CAME INTO HIS HAND AS HE SAYS ADDRESSED BY HAIGHT AND SENT TO JOHN D. LEE SIGNED</p>		
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**RT**

**RS**

**BT**

**PS**

	<p>BY HAIGHT AND ADDRESSED TO JOHN D. LEE NOW THEN BEFORE THEY CAN INTRODUCE LETTER OF THAT KIND THEY WILL HAVE TO SHOW THAT LETTER WAS FROM HAIGHT WROTE IT SIGNED IT [space] HOGE {TO}<sup>1</sup> MR. BASKIN LET ME REFER YOU TO SAME AUTHORITY ON THIS QUESTION JUDGE SUTHERLAND SUGGESTED [space] REFER YOU TO BISHOP'S CRIMINAL PROCEDURE IT HAS BEEN SOLEMNLY ≤DECIDED≥ THERE IS NO DIFFERENCE BETWEEN RULES OF EVIDENCE IN CIVIL AND CRIMINAL CASES HOGE PARTY IS WITNESS IN CIVIL CASES</p>		
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**RT**

**RS**

**BT**

**PS**

	<p>[<i>space</i>] HE GOES ON THEN AND GIVES DISTINCTION THAT THERE IS THIS MATTER WILL BE DISCUSSED FURTHER ON FOLLOWING CHAPTER THIS IS <i>PRINCIPALLY</i>[?] QUESTION TO LET IN SECONDARY EVIDENCE ONLY IT IS NOT ADDRESSED TO JURY AT ALL IT IS QUESTION THAT GOES TO YOUR HONOR ENTIRELY THAT <b>SUBJECT</b> ≤FACT≥ CAN'T AFFECT SUBJECT SAME RIGHT CASE OF THIS KIND EXISTS <i>WHEREIN</i>[?] PARTY MAY GIVE THIS STATEMENT UNDER OATH LAYING FOUNDATION FOR SECONDARY EVIDENCE AS IT WOULD BE FOR HIM TO MAKE AFFIDAVIT.</p>		
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**RT**

**RS**

**BT**

**PS**

	<p>THERE ARE EXCEPTIONS TO THIS RULE WHEREIN CRIMINAL PRACTICE DIFFERS FROM CIVIL IN A CRIMINAL CASE USE OF PRIMA FACIE CASE ETC. THESE ARE EXCEPTIONS PUT THROUGH AS TO ADMISSIBILITY OF TESTIMONY THIS IS NOT TESTIMONY ADDRESSED TO JURY AT ALL IT IS EVIDENCE TO GO TO COURT FOR PURPOSE OF LAYING FOUNDATION FOR LEGAL QUESTION IT CAN'T POSSIBLY GO TO JURY AT ALL ADDRESSED TO COURT ENTIRELY IS TO LAY FOUNDATION FOR SECONDARY EVIDENCE. [space] BASKIN WHETHER IN CIVIL OR CRIMINAL CASES SECONDARY</p>		
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**RT**

**RS**

**BT**

**PS**

BASKIN ARGUED	EVIDENCE IN RELATION TO INSTRUMENT <i>NOTHING</i> [?] CAN BE INTRODUCED UNLESS FOUNDATION LAID FOR IT SUPPOSE DOCUMENT ITSELF OF WHICH THEY PROPOSE NOW HERE TO PROVE WAS IN COURT IN HANDS OF ATTORNEY WOULD HAVE TO BE LAID ON FOUNDATION TO INTRODUCE MAN CHARGED NOT TESTIFIED BUT THEY WOULD HAVE TO PROVE GENUINENESS OF LETTER BY COURT I UNDERSTAND THAT IS WHAT THEY PROPOSE TO DO [ <i>space</i> ] BASKIN THEY CAN'T PROVE CONTENT BEFORE THEY LAY FOUNDATION [ <i>space</i> ] BY HOGE WE PROPOSE TO LAY THAT BY MR. LEE [ <i>space</i> ] BASKIN		
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**RT**

**RS**

**BT**

**PS**

<p>THAT; LEE WAS NOT A COMPETENT WITNESS, AND THAT IF LEE BE PERMITTED TO GIVE THAT EVIDENCE IN A CRIMINAL CASE IT GIVES HIM A CHANCE</p> <p>TO MANUFACTURE A LETTER AND THIS HAD PASSED THROUGH THE HANDS <sup>[486]</sup> OF A THIRD PARTY, AND TO PERMIT HIM TO COME IN COURT AND PROVE THE CONTENTS OF IT WOULD ONLY BE FOR THE PURPOSE OF COVERING UP CRIME.</p>	<p>MR. LEE IS NOT A COMPETENT WITNESS IF YOU ADMIT SUCH A PROPOSITION AS THAT IN CRIMINAL CASE IT GIVES PERSON WHO HAVE <sup>[23]</sup> FORMED INTENTION TO COMMIT CRIME TO MANUFACTURE LETTER LET IT PASS THROUGH HANDS OF 3RD PARTY</p> <p>COME HERE IN COURT PROVE CONTENTS OF IT</p> <p>FOR PURPOSE OF COVERING UP CRIME. WHEN YOU COME TO PROVE CONTENTS OF WRITTEN INSTRUMENT COURT WILL NEVER ALLOW IT UNTIL FOUNDATION IS LAID <sup>[space]</sup></p>		
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**RT**

**RS**

**BT**

**PS**

<p>SUTHERLAND:  ALL <del>B</del> WE ASK IS THAT THE WITNESS MAY BE PERMITTED TO STATE THE CONTENTS OF IT. BASKIN: THE QUESTION THEY ASK NOW IS WHETHER MR. LEE CAN BE PUT ON THE STAND FOR THAT</p>	<p>NOW QUESTION TO WHICH WE OBJECT IT IS NOT SUFFICIENT THE QUESTION TO WHICH WE NOW OBJECT IS THEY ARE SEEKING TO PROVE A WRITTEN INSTRUMENT WITHOUT HAVING LAID PROPER FOUNDATION FOR THE READING WHEREIN COURT HEARD EVIDENCE EMANATING FROM THAT SOURCE I DO NOT THINK THEY WOULD HAVE RIGHT TO PROVE. ““SUTHERLAND LET ME SUGGEST I ASK THAT WITNESS  STATE THE CONTENTS OF IT”” [space]  {Q} QUESTION THEY ASK NOW IS WHETHER MR. LEE CAN BE PUT ON STAND FOR THAT</p>	<p>THE COURT: THE QUESTION THEY ASK NOW IS WHETHER MR. LEE CAN BE PUT ON THE STAND FOR THAT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>PURPOSE.        BASKIN: HE        MAY HAVE        MANUFACTURED        IT HIMSELF        FOR THAT        PURPOSE,BUT        COULD        THEY PROVE        THAT IT EVER        CAME TO <del>HIM</del>.        HIS HANDS        FURTHER        DISCUSSION        ENSUED OF        CONSIDERABLE        LENGTH        BETWEEN        BASKIN AND        SUTHERLAND.        THE COURT        OVERRULED THE        PROPOSITION OF        COUNSEL FOR        DEFENSE.</p>	<p>PURPOSE [<i>space</i>]        BASKIN HE        MAY HAVE        MANUFACTURE        D IT HIMSELF        FOR THAT        PURPOSE [<i>space</i>]        BUT COULD        THEY PROVE        THAT IT EVER        CAME TO HIS        HAND?</p> <p>AND THEN        AGAIN ON THE        MAIN QUESTION        STILL IT IS        GENERAL        PROPOSITION        RULES APPLY        ALIKE TO CIVIL        AND CRIMINAL        CASES BISHOP        ≤MIGHT≥        SHOWS        APPLICATION OF        THE RULE        WHETHER IT BE        IN CIVIL CASE        OR CRIMINAL        CASE ANY        EVIDENCE</p>	<p>PURPOSE. <sup>[322]</sup>        BASKIN: HE        MAY HAVE        MANUFACTURE        D IT HIMSELF        FOR THAT        PURPOSE;        BUT THEY        CANNOT PROVE        THAT <del>E</del> IT EVER        CAME TO HIS        HAND.</p>	
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**RT**

**RS**

**BT**

**PS**

	<p>CIRCUMSTANCES ANY TESTIMONY WHICH TENDS TO PROVE FACT UNDER ISSUE [space] SHOW THE TRUTH IS OBTAINED BECAUSE THE OBJECT OF EVIDENCE OBJECT TO BE OBTAINED BY TESTIMONY IS TO PROVE THE FACT AND TRUTH AND ANYTHING THAT LOGICALLY NATURALLY TENDS TO ESTABLISH THE TRUTH IS PERTINENT TO THAT QUESTION RULES OF EVIDENCE IN ONE CASE APPLIES TO OTHER I CHALLENGE GENTLEMAN BRING IN THIS COURT A CASE IN WHICH IT HAS EVER BEEN DECIDED WHERE CRIMINAL COULD BE PUT ON THE STAND INTRODUCE</p>		
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**RT**

**RS**

**BT**

**PS**

	<p>EVIDENCE BEFORE PERPETRATION OF CRIME AND [space] SUTHERLAND</p> <p>TO PROVE THE LOSS OF THE ORIGINAL AS IT WILL BE INFLUENCED BY OBJECTION COUNSEL MAKES TO THE LETTER ITSELF BEING INTRODUCED IN EVIDENCE I DESIRE MAKE SUGGESTION UPON THAT SUBJECT; THE OBJECT OF INTRODUCING IT IS, TO SHOW THAT AT THE VERY TIME = WHEN ACCORDING TO THEORY OF PROSECUTION, HAIGHT WAS URGING THE DESTRUCTION OF THE EMIGRANTS, HE WAS IN FACT WRITING BY THIS LETTER VERY</p>	<p>SUTHERLAND: IT CAN BE DONE TO PROVE THE LOSS OF THE ORIGINAL .</p> <p>THE OBJECTION THAT COUNSEL MAKES TO THE LETTER OR TO ITS BEING INTRODUCED AND ITS CONTENTS, I DESIRE TO MAKE A SUGGESTION UPON THAT SUBJECT. THE OBJECT OF INTRODUCING IT IS TO SHOW THAT AT THE VERY <del>TIME THE</del>, WHEN, ACCORDING TO THE THEORY OF THE PROSECUTION, HAIGHT WAS URGING ON THE DESTRUFTION OF THE EMIGRANTS. HE WAS IN FACT WRITING THIS VERY LETTER AND</p>	
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**RT**

**RS**

**BT**

**PS**

	<p>DIFFERENT DIRECTIONS, SO THAT IF THIS LETTER COMES IN, IT TENDS TO SHOW HAIGHT'S MIND TO BE ENTIRELY OPPOSED TO THE DESTRUCTION OF THE EMIGRANTS, SHOWS SUCH A STATE OF MIND AS IS <i>NOT/ENTIRELY</i>[?] <sup>394</sup>WITH THE COMBINATION WHICH THE PROSECUTION CONTEND HAD BEEN FORMED <sup>[24]</sup> IT CONTRADICTS THAT THEORY <i>THEREFORE</i>[?] IT IS IMPORTANT ITEM OF TESTIMONY IT WAS WRITTEN AT THE VERY PARTICULAR WHEN THEY CLAIM THERE WAS COMBINATION IT IS <i>FACT/EFFECT</i>[?]</p>	<p>GIVING OTHER DIRECTIONS SO THAT IF THE CONTENTS OF THIS LETTER COMES IN IT TENDS TO SHOW HAIGHT'S MIND TO BE ENTIRELY OPPOSED TO THE DESTRUCTION OF THE EMIGRANTS TO SHOW SUCH A STATE OF MIND WHICH IS ENTIRELY DIFFERENTS TO THAT WHICH THE PROSECUTION CONTEND FOR-;</p>	
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394. Written "NT", transcribed "NOT", through this word is rarely written this way; terminal "RL" apparently added later, would render the word "ENTIRELY".

**RT**

**RS**

**BT**

**PS**

<p>Q. STATE THE TIME YOU SAW THIS LETTER WITH REFERENCE TO THE EMIGRANTS THAT HAD PASSED PINTO, WAS IT BEFORE OR AFTERWARDS ? A. IT WAS AFTER THE EMIGRANTS HAD PASSED. BASKIN:</p>	<p>CONSTITUTE RES GESTAE ONE WE THINK WE ARE ENTITLED TO HAVE PUT IN EVIDENCE LETTER NOT BEING WITHIN REACH WE ARE REDUCED TO NECESSITY OF PROVING ITS CONTENTS</p> <p>BY SECONDARY EVIDENCE. BY COURT WHEN AND WHERE WAS IT [space] TO ROBINSON {Q}'ONE[?] IS THING I COULD NOT TELL AT THAT TIME [space]</p> <p>{Q}' STATE TIME YOU SAW THIS LETTER WITH REFERENCE TO ≤THE≥ TIME EMIGRANTS HAD PASSED PINTO, BEFORE OR AFTERWARDS {A}'IT WAS AFTER EMIGRANTS HAD PASSED {Q}'BY BASKIN:</p>	<p>AND WE HAVE A RIGHT TO PROVE THE CONTENTS OF THAT LETTER BY SECONDARY EVIDENCE.- THE COURT: WHEN AND WHERE WAS IT WRITTEÐN? WITNESS: I COULD NOT TELL TELL AT THAT TIME. Q. (SUTHERLAND:) STATE AT THE TIME YOU SAW THIS LETTER WITH REFERENCE TO THE TIME THE EMIGRANT PARTY HAD PASSEDPINTO OR AFTERWARDS? A. IT WAS AFTER THE EMIGRANTS HAD PASSED. BASKIN:</p>	
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**RT**

**RS**

**BT**

**PS**

<p>HOW LONG AFTER ? HOGE: BEFORE OR AFTER THE MASSACRE ? A. BEFORE THE MASSACRE.</p> <p>COURT: DO YOU KNOW WHEN IT WAS WRITTEN ? A. I COULD NOT TELL. COURT: UNLESS SOME AUTHORITY IS SHOWN ME</p> <p>I WOULD NOT BE WILLING FOR THE DEFENDANT'S WITNESS TO TESTIFY. COURT: THIS WITNESS CANNOT FIX THE DATE ANYHOW. SUTHERLAND: I HAVE NOT YET INQUIRED OF HIM SO AS TO HAVE THE ADVANTAGE OF THAT LETTER.</p> <p>Q. STATE THE DAY OR THE TIME WITH</p>	<p>HOW LONG AFTER HOGE BEFORE OR AFTER MASSACRE {A}<sup>i</sup> IT WAS BEFORE THE MASSACRE [space] BY COURT [space] DO YOU KNOW WHEN IT WAS WRITTEN ? {A}<sup>i</sup> COULD NOT TELL. [space] BY COURT. UNLESS SOME AUTHORITY IS SHOWN <math>\Leftarrow</math>ON THIS QUESTION<math>\Rightarrow</math> I WOULD NOT BE WILLING <math>\Leftarrow</math>FOR DEFENDANT<math>\Rightarrow</math> FOR WITNESS TO TESTIFY BY COURT TO DEFENSE THIS WITNESS CANNOT FIX DATE ANY HOW SUTHERLAND I HAVE NOT YET INQUIRED OF HIM SO AS TO HAVE ADVANTAGE OF THE WHOLE MATTER BY COURT ASK {Q}<sup>i</sup>STATE DATE OF IT WITH</p>	<p>HOW LONG AFTER? A. (NO ANSWER) HOGE: BEFORE OR AFTER THE MASSACRE? A. IT WAS BEFORE THE MASSACRE. THE COURT: DO YOU KNOW WHEN IT WAS WRITTEN? A. I COULD NOT TELL. THE COURT. UNLESS SOME AUTHORITY IS THROWN ON THIS QUESTION , I WOULD NOT BE WILLING FOR THE DEFENDANT'S WITNESS TO TESTIFY.</p> <p>THIS WITNESS CANNOT FIX THE DATE ANY HOW. SUTHERLAND: I HAVN'T YET INQUIRED OF HIM HIS SO AS TO HAVE ADVANTAGE OF THE WHOLE MATTER, BUT I WILL ASK HIM : Q. STATE THE DAY OR THE TIME WITH</p>	
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**RT**

**RS**

**BT**

**PS**

<p>REFERENCE TO THE TIME OF YOUR SEEING THE LETTER ? <sup>[487]</sup>  BASKIN: HE SAYS HE DON'T REMEMBER THE DAY.  COURT: HE SAYS HE DID NOT REMEMBER.  SUTHERLAND: I ASK HIM WHAT DATE OR DAY IT WAS WITH REFERENCE TO THE TIME WHEN YOU SAW IT—THE DATE OF THE LETTER ITSELF— WHETHER IT WAS DATED IMMEDIATELY BEFORE OR A LONG TIME BEFORE— WHAT WAS ITS DATE WITH REFERENCE TO YOUR SEEING IT ?  A. I DON'T REMEMBER THE DAY AT ALL.  BASKIN: IT WAS SUGGESTED THAT THE PROSECUTING ATTORNEY &lt;THAT ANOTHER&gt; A VERY COGENT</p>	<p>REFERENCE TO THE TIME OF YOUR SEEING THE LETTER BASKIN HE SAYS HE DON'T REMEMBER THE DATE BY COURT, I SEE HE SAYS HE DON'T REMEMBER.  SUTHERLAND I ASK HIM WHAT DATE OF IT WAS WITH REFERENCE TO {THE}<sup>i</sup> TIME WHEN YOU SAW IT = DATE OF LETTER ITSELF , WHETHER IT WAS DATED IMMEDIATELY BEFORE, OR LONG TIME BEFORE {Q}<sup>i</sup>  WHAT WAS ITS DATE WITH REFERENCE TO YOUR SEEING IT {A}<sup>i</sup> I DON'T REMEMBER THE DAY AT ALL.  BASKIN IT WAS SUGGESTED BY PROSECUTION ATTORNEY ANOTHER VERY COGENT</p>	<p>REFERENCE TO THE TIME OFYOUR SEEING THE LETTER? BASKIN: HE SAYS HE DON'T REMEMBER THE DAY. THE COURT: YES, HE SAYS HE DOES NOT REMEMBER. <sup>[323]</sup>  SUTHERLAND: I ASK HIM WHAT DATE IT WAS, WITH REDERENCE TO THE TIME WHEN YOU SAW IT; THE DATE OF THE LETTER ITSELF; WHETHER IT WAS DATED IMMEDIATELY BERORE OR A LONG TIME BEFORE? Q.  WHAT WAS ITS DATE WITH REFERENCE T O SEEING IT?  A . I DON'T REMEMBER THE DATE AT ALL.  BASKIN: IT WAS SUGGESTED BYTHE PROSECUTION WHEN THEY WERE OFFERING IT A THAT IT WAS A FOR A COGENT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>REASON———</p> <p>SUTHERLAND: DOES YOUR HONOR <b>RULE</b> AGAINST THE PARTY BEING PERMITTED TO GIVE THE REASON ? COURT: I RULED BECAUSE I CANNOT CALL ANY AUTHORITY FOR IT ?</p> <p>Q. STATE WHETHER YOU SAW ANY INDIANS ABOUT</p>	<p>REASON BY COURT YES AND UNLESS SOME OTHER ≦COGENT REASON≧</p> <p>SUTHERLAND {DOES}<sup>1</sup> YOUR HONOR RULES AGAINST PARTY BEING PERMITTED TO GIVE REASON BY COURT I RULE , BECAUSE I CANNOT CALL ANY AUTHORITY FOR IT.</p> <p>SUTHERLAND THE LIBRARIES ARE NOT VERY LARGE HERE I HAVE NOT HAD ACCESS, HENCE I CAN'T REFER YOU TO</p> <p>AUTHORITIES ON THE POINTS. BY COURT PROCEED WITH THIS WITNESS = = {Q}<sup>1</sup>STATE WHETHER YOU SAW ANY INDIANS ABOUT</p>	<p>REASON . THE COURT: YES, AND UNLESS SOME GOOD REASON IS SHOWN——</p> <p>SUTHERLAND: DOES YOUR HONOR RULE AGAINST A PARTY BEING PERMITTED TO GIVE THE REASON? THE COURT: I RULE BECAUSE, I CANNOT CALL ANY AUTHORITY FOR IT.</p> <p>SUTHERLAND: THE LIBRARIES ARE NOT VERY LARGE HERE, AND I HAVN'T HAD ACCESS; HENCE I CA NNOT REFER YOU TO ANY OF THE AUTHORITIES ON THE POINT . <b>COURT:</b> GO ON PROCEED WITH THIS WITNESS.</p> <p>Q. STATE WHETHER YOU SAW ANY INDIANS ABOUT</p>	<p>[[Bk 11 1]]<sup>395</sup> STATE WHETHER YOU SAW ANY INDIANS ABOUT</p>
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395. The cover of the notebook includes a large 11 and “**MCFARLANE’S TESTIMONY CHGE TO THE JURY SUTHERLAND’S ARGUMENT CAREYS ADDRESS**” written at the top. Brigham Young’s deposition and George A. Smith’s affidavit are copied on the verso pages of this notebook.

**RT****RS****BT****PS**

<p>PINTO — ABOUT THE TIME OF RECEIVING THIS LETTER ? A. I SAW ABOUT,IF I REMEMBER RIGHT AT THAT TIME, PERHAPS A DAY OR TWO AFTERWARDS — —— Q.</p>	<p>PINTO ABOUT THE TIME OF RECEIVING THIS LETTER {A}^i I SAW &lt;IF I REMEMBER RIGHT&gt; ABOUT THAT TIME PERHAPS A DAY OR TWO AFTERWARDS Q</p>	<p>PINTO AFTER THE TIME OF RECEIVING THIS LETTER? A. I SAW IF I REMEMBER RIGHT ABOUT THAT TIME— PERHAPS A DAY OR TWO AFTERWARDS— —— Q.</p>	<p>PINTO AFTER THE TIME OF RECEIVING THIS LETTER I SAW THEM IF I REMEMBER RIGHT ABOUT THAT TIME PERHAPS A DAY OR TWO AFTERWARDS</p>
<p>WHERE WERE YOU DURING THE DAY TIME WITH REFERENCE TO A THROUGHFARE</p>	<p>WHERE WERE YOU DURING {THE}^i DAY TIME WITH REFERENCE TO THE THROUGH FARE</p>	<p><b>(INTERRUPTIN G)</b> WHERE WERE YOU DUFRING THE DAY TIME?WITH REFERENCE TO THE THOROUGHFAR E, THE ROAD</p>	<p>WHERE WERE YOU DURING THE DAY TIME WITH REFERENCE TO THE THOROUGHFAR E THE ROAD</p>
<p>PASSING BY PINTO TO THE MEADOWS —</p>	<p>PASSING BY PINTO TO MEADOWS</p>	<p>PASSING BY PINTO TO THE MEADOWS.</p>	<p>PASSING FROM PINTO TO THE MEADOWS</p>
<p>WHERE DID YOU SPEND YOUR TIME — ON THE ROAD WHERE YOU COULD SEE THEM ?</p>	<p>[space] ≤?≥ TRAIL {Q}^i WHERE DID YOU SPEND YOUR TIME ON THE ROAD WHERE YOU COULD SEE THEM</p>	<p>WHERE DID YOU SPEND YOUR TIME ON THE ROAD, WHERE YOU COULD SEE THEM?</p>	<p>WHERE DID YOU SPEND YOUR TIME WAS IT ON THE ROAD WHERE YOU COULD SEE THEM IF THEY WERE</p>
<p>A. NO SIR. Q. WERE YOU NEAR WHERE THEY USUALLY TRAVELLED WHEN THEY WERE GOING IN THAT DIRECTION ON</p>	<p>{A}^i NO SIR Q WERE YOU NEAR WHERE THEY USUALLY TRAVELED WHEN THEY WAS GOING IN THAT DIRECTION <sup>[[25]]</sup></p>	<p>A . NO SIR. Q. WERE YOU NEAR WHERE THEY USUALLY <del>R</del>TRAVELLED WHEN THEY WERE GOING THAT DIRECTION ON</p>	<p>TRAVELING THE ROAD NO SIR WERE YOU NEAR WHERE THEY USUALLY TRAVELED WHEN GOING IN THAT DIRECTION</p>

**RT**

**RS**

**BT**

**PS**

<p>THE PUBLIC THOROUGHFARE ? A. NO SIR. Q. ON AN INDIAN TRAIL ?</p> <p>A. NO SIR.</p> <p>[488] Q. I WILL ASK YOU IF THERE IS ANOTHER GENTLEMAN AT PINTO OF YOUR NAME ?</p> <p>A. NO SIR. Q. WAS THERE IN 1857 ? A. NO SIR, NOT THAT I CAN REMEMBER OF. Q. WHAT OFFICE <del>DI</del> <del>DO</del> YOU HOLD THERE IN THE CHURCH NOW ? A. A BISHOP. Q. WHAT WERE YOU THEN ? A. AN ELDER.</p> <p>CROSS -</p>	<p>PUBLIC THOROUGHFARE {A} NO SIR {Q} ON INDIAN TRAIL</p> <p>{A} NO SIR BY THE DEFENSE THAT IS ALL [space] BY COURT TAKE THE WITNESS [space] BY SUTHERLAND THAT IS ALL YOU CAN TAKE THE WITNESS</p> <p><b>CROSS-EXAMINATION</b></p> <p>{Q} I WILL ASK IF THERE ANY OTHER GENTLEMAN AT PINTO OF YOUR NAME</p> <p>{A} NO SIR {Q} WAS THERE IN '57 {A} NO SIR NOT THAT I CAN REMEMBER OF {Q} WHAT OFFICE DO YOU HOLD THERE IN THE CHURCH [space] NOW {A} THE BISHOP {Q} WHAT WERE YOU THEN {A} AN ELDER BY SUTHERLAND THAT IS ALL.</p> <p><b>CROSS</b></p>	<p>THE PUBLIC THOROUGHFARE? A. NO, SIR. Q. OR ON ANY INDIAN TRAIL?</p> <p>A. NO, SIR..</p> <p>Q. I WILL ASK YOU IF THERE IS ANY OTHER GENTLEMAN AT PINTO OF YOUR NAME?</p> <p>A. NO, SIR. Q. WAS THERE IN '57? A . NO, SIR, NOT THAT I CAN REMEMBER OF. Q . WHAT OFFICE DO YOU HOLD TH ERE IN THE CHURCH NOW, ? A. BISHOP. Q. WHAT WERE YOU THEN? A. AN ELDER.</p> <p>[324] CROSS -</p>	<p>NO SIR AN INDIAN TRAIL IF THERE WAS ANY NO SIR [space]</p> <p>IF THERE WAS ANY OTHER GENTLEMAN OF YOUR NAME ROBINSON AT PINTO NO SIR WAS THERE IN 1857 NO SIR NOT THAT I CAN REMEMBER OF WHAT OFFICE DO YOU HOLD THERE IN THE CHURCH NOW A BISHOP WHAT WERE YOU THEN I WAS AN ELDER. [space]</p> <p>CROSS</p>
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RT	RS	BT	PS
<p>EXAMINED.</p> <p>Q. HAVE YOU EVER <del>HAVE</del> HAD IN YOUR POSSESSION SUCH A LETTER AS YOU HAVE SPOKEN OF FROM WHOM DID YOU RECEIVE IT ? SUTHERLAND: WE OBJECT TO</p> <p>THE QUESTION. Q. WHO DELIVERED IT INTO YOUR HANDS ? SUTHERLAND: THE OBJECT OF MY INTRODUCING IT WAS TO GET THE CONTENTS OF IT BEFORE THE JURY, AND AS WE CANNOT GET IT BEFORE THE JURY IT IS A SUBJECT WE</p> <p>CANNOT BRING <del>THEM</del> BEFORE THEM. COURT: COURT: I ONLY UNDERSTOOD IT WAS IN REGARD TO</p>	<p><b>EXAMINATION</b><sub>i</sub></p> <p>BASKIN {Q}<sup>i</sup> IF YOU EVER HAD IN YOUR POSSESSION SUCH A LETTER AS YOU HAVE SPOKEN OF FROM WHOM DID YOU RECEIVE IT ? BY SUTHERLAND WE OBJECT</p> <p>[space] BASKIN {Q}<sup>i</sup>WHO DELIVERED IT INTO YOUR HANDS SUTHERLAND OBJECT OF MY INTRODUCING WAS TO GET CONTENTS OF IT BEFORE JURY AS WE CANNOT GET IT BEFORE JURY IT IS A SUBJECT HE</p> <p>CANNOT BRING BEFORE THEM. BY COURT</p> <p>IT WAS ONLY IN REGARD S TO</p>	<p>EXAMINATION OF RICHARD S. ROBINSON BY BASKIN: Q. STATE IF YOU HAVE HAD IN <del>YOU</del>R POSSESSION SUFCH A LETTER AS YOU HAVE SPOKEN OF AND FROM WHOM DID YOU RECEIVE IT? SUTHERLAND: WE OBJECT TO THE FORM OF THE QUESTION. Q. WHO DELIVERED IT INTO YOUR HANDS? SUTHERLAND: THE O<del>N</del>BJECT OF MY INTRODUCING IT WAS TO GET THE CONTENTS OF IT BEFORE THE JURY AND AS WE CAN'T GET IT BEFOERE THE JURY, IT AIS A SUBJECT <del>WE</del> <b>YOU</b></p> <p>CANNOR BRING BEFORE THEM. THE COURT:</p> <p>IT WAS ONLY IN REGARD TO</p>	<p>EXAMINATION [space]</p> <p>IF YOU EVER HAD IN YOUR POSSESSION SUCH A LETTER AS YOU HAVE SPOKEN AND FROM WHOM DID YOU RECEIVE IT</p> <p>WHO DELIVERED IT INTO YOUR HANDS</p> <p>OBJECTED TO BECAUSE TESITMONY IN REGARD TO THAT LETTER HAS BEEN EXCLUDED. AND <i>TESTIMONY</i>[?] <i>NOT BEING</i>[?] <i>BEFORE</i>[?] THE JURY AS IT IS A SUBJECT</p> <p>NOT BEFORE THE JURY &lt;COURT&gt; I DID NOT ASK TO EXCLUDE THE TESTIMONY THAT WAS</p>



**RT**

**RS**

**BT**

**PS**

<p>THE CONTENTS.</p> <p>BASKIN: WE MAY BE ABLE TO PRODUCE THAT LETTERR — MAY BE ABLE TO SHOW NO SUCH &lt;PERSONS&gt; EVER DELIVERED YOU SUCH A LETTER. Q. WHO DELIVERED YOU THAT LETTER ?</p> <p>A. I AM NOT POSITIVE. Q. DIDN'T JOEL WHITE DELIVER IT TO YOU ? — THE LETTER I HAVE REFERENCE TO ? [489] A. I THINK AMOS G. THORNTON DELIVERED IT TO ME. [space]</p>	<p>THE CONTENTS AS I UNDERSTOOD IT HOGE THIS QUESTION THAT ONE/WE WANT[?] IMPANELED[?] BASKIN WE MAY BE {ABLE}<sup>i</sup> PRODUCE THAT LETTER , OR MAY BE ABLE TO SHOW NO SUCH MEN</p> <p>EVER DELIVERED YOU SUCH LETTER. {Q}<sup>i</sup> WHO DELIVERED YOU THAT LETTER &lt;?&gt;</p> <p>{A}<sup>i</sup> I AM NOT POSITIVE {Q}<sup>i</sup> DIDN'T JOEL WHITE DELIVER IT TO YOU &lt;?&gt; A LETTER I HAVE REFERENCE TO {A}<sup>i</sup> I THINK AMOS G THORNTON DELIVERED IT TO ME BY PROSECUTION THAT IS ALL BY COURT CALL YOUR NEXT WITNESS [space] BY</p>	<p>THE CONTENTS, AS I UNDERSTAND IT.</p> <p>BASKIN: WE MAY BE AABLE TO PRODUCE THAT LETTER; WE OR WE MAY BE ABLE TO SHOW NO SUCH MAN</p> <p>EVER DELIVEDRED HIM YOU THE SAID LETTER. Q. WHO DELOIVERED YOU THA T LETTER? A. JOEL WHITE.</p> <p>A. I AM NOT POSITIVE . Q. DIDN'T JOEL WHITE DELIVER IT TO YOU? A. THE LETTER I HAVE REFERENCE TO, I THINK AMOS G. THORNTON DELIVERED IT TO ME.</p> <p>THAT IS ALL.</p>	<p>BEFORE ANY/HOW[?].&gt;</p> <p>BASKIN</p> <p>WE MAY BE ABLE TO SHOW THAT NO SUCH MAN AS THE MAN NAMED [space]</p> <p>WHO DELIVERED YOU THAT LETTER</p> <p>I AM NOT POSITIVE [space] DIDN'T JOEL WHITE DELIVER IT TO YOU THE LETTER I HAVE REFERENCE TO I THINK AMOS G THORNTON DELIVERED TO ME [space]</p>
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**RT**

**RS**

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**PS**

<p>SAMUEL JACKSON , SWORN</p> <p>FOR THE DEFENSE.</p> <p>Q. HAVE YOU BEEN IN THE ROOM MR. JACKSON WHILE THE EXAMINATION HAS BEEN GOING ON ? A. YES SIR.</p> <p>Q. WERE YOU SUBPOENAED ? A. NO SIR. Q. DO YOU LIVE IN THIS TOWN ? A. YES SIR.</p> <p>I HAVE BEEN IN HERE CONSIDERABLE.</p>	<p>SUTHERLAND HAVE YOU ANY OBJECTIONS TO MR. ROBINSON LEAVING FOR HOME NOW BY PROSECUTION NO SIR CAREY ANSWERED THE QUESTION</p> <p><del>SAMUEL JACKSON,</del> SEN'R OATH ADMINISTERED BY CLERK.</p> <p>{Q}^i HAVE YOU BEEN IN ROOM MR. JACKSON WHILE {THE}^i EXAMINATION HAS BEEN GOING ON {A}^i NO <del>YES</del> SIR</p> <p>{Q}^i WERE YOU SUBPOENAED {A}^i NO SIR {Q}^i DO YOU LIVE IN THIS TOWN {A}^i YES SIR [space]</p> <p>I HAVE BEEN IN HERE CONSIDERABLE</p>	<p>SUTHERLAND: HAVE YOU ANY OBJECTIONS TO MR. ROBINSON'S LEAVING FOR HOME NOW? BASKIN: NO. CAREY: : NO .</p> <p>SAMUEL JACKSON SNR. HAVING BEEN CALLED AS A WITNESS ON THE PART OF THE DEFENSE TESTIFIED AS FOLLOWS.</p> <p><del>REDT</del> EXAMINATION BY MR.</p> <p><del>SUTHERLAND:</del> Q. HAVE YOU BEEN IN THE ROOM, MR. JACKSON, WHILE THE EXAMINATION HAS BEEN GOING ON? A. YES, SIR .</p> <p>Q. WERE YOU SUBPOENAED? A. NO, SIR. Q. DO YOU LIVE IN THIS TOWN? A. YES, SIR. <sup>[325]</sup> Q. HOW MUCH TIME HAVE YOU BEEN IN HERE ? A. BEEN IN HERE CONSIDERABLE.</p>	<p><del>SAMUEL JACKSON SR. BEEN SWORN SWORN</del> FOR THE PROSECUTION DEFENSE</p> <p><del>BASKIN</del> HAVE YOU BEEN IN THE ROOM</p> <p>WHILE THIS EXAMINATION BEEN GOING ON YES SIR WERE YOU SUBPOENAED NO SIR DO YOU LIVE IN THIS TOWN YES SIR HOW MUCH TIME HAVE YOU BEEN IN HERE BEEN IN HERE CONSIDERABLE</p>
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**RT**

**RS**

**BT**

**PS**

<p>COURT: HE SWEARS HE WAS IN HERE, BUT I DIDN'T KNOW OF IT.</p> <p>SUTHERLAND: HE WAS IN ON THE ORIGINAL LIST OF WITNESSES. COULD NOT BE UNDERSTOOD WHEN KLINGENSMITH WAS ON THE STAND. HE MENTIONED HIM. I WAS INFORMED AT THE TIME HE WAS IN THE ROOM.</p>	<p>HOG E I AM NOT HE HAD BEEN IN BY COURT HE SWEARS HE WAS BUT I DIDN'T KNOW OF IT.</p> <p>SUTHERLAND HE WAS NOT ON ORIGINAL LIST AND SO WITNESS COULD NOT BE INSIDE WHEN SMITH WAS ON STAND AND HE MENTIONED HIM , AND I WAS INFORMED AT THE TIME HE WAS IN THE ROOM [space] AND HE WAS INFORMED FROM THAT TIME.</p> <p>I REQUESTED IT TO BE DONE BE NOTIFIED NOT TO COME I SUPPOSED FROM THAT TIME FORWARD HE</p>	<p>HOG E: HE FWSAS NOT ON OUR LIST: I WAS NOT AWARE THAT HE WAS IN, UNDER THE RULE <b>THAT</b> <del>THAT</del> WE ADOPTED.</p> <p>SUTHERLAND: HE WAS NOT ON THE ORIGINAL LIST. AND SO THE WITNESS COULD NOT HAVE BEEN INFORMED. WHEN KLINGENSMITH WAS ON THE STAND HE MENTIONED HIM AND I WAS INFORMED AT THE TIME THAT HE WAS IN THE ROOM; AND HE WAS INFORMED AT THAT TØIME TO AMBSENT HIMSELF.</p> <p>I REQUESTED IT TO BE DONE; TO NOTIFY HIM NOT TO COME. ANSD I SUPPOSED FROM THA T TIME ONWARD HE</p>	<p>[space] HOG E HIS NAME WAS ON OUR LIST I WAS NOT AWARE THAT HE WAS IN UNDER THE RULE THAT WE ADOPTED.</p> <p>◀SUTHERLAND▶ HE WAS NOT ON THE ORIGINAL LIST SO THE WITNESS COULD NOT HAVE BEEN NOTIFIED [space] WHEN KLINGENSMITH WAS ON THE STAND HE MENTIONED IT [space]</p> <p>HE WAS REQUESTED AT THAT TIME TO ABSENT HIMSELF [space] HAVE YOU BEEN IN SINCE THEN YES SIR</p> <p>I REQUESTED IT TO BE DONE AND TOOK FOR GRANTED THAT IT HAD BEEN DONE. [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>COURT:</p> <p>I WAS NOT AWARE OF HIS BEING HERE OR I WOULD HAVE CALLED ATTENTION TO IT,</p> <p>AND ON THE RULE WE ADOPTED THE OTHER DAY HE WILL HAVE TO BE EXCUSED. SUTHERLAND AND</p>	<p>HAD NOT BEEN IN HERE BY COURT I HAVE SEEN HIM IN HERE</p> <p>I WAS NOT AWARE OF HIS BEING WITNESS OR I WOULD HAVE CALLED ATTENTION TO IT <i>MYSELF</i>[?]</p> <p>BY COURT THE RULE WE ADOPTED THE OTHER DAY HE WILL HAVE TO BE EXCUSED SUTHERLAND I INQUIRED ON TUESDAY WHAT HAD BEEN PRACTICE BY COURT I STATED <sup>[[26]]</sup> THERE MAY BE PECULIAR CIRCUMSTANCE</p>	<p>HADN'T BEEN IN.</p> <p>COURT: I HAVE SEEN HIM IN HERE, BUT I WASN'T AWARE OF HIS BEING A WITNESS, OR <del>AZ</del> I WOULD <b>HAVE</b> CALLED HIS ATTENTION TO IT MYSELF.</p> <p>COURT: (TO WITNESS) HAVE YOU BEEN IN SINCE THE N? A. YES, SIR .</p> <p>SUTHERLAND: I <del>I</del> REQUESTED IT TO BE <del>DOMNE</del> AND TOOK IT FOR GRANTED THAT IT HAD BEEN DONE..</p> <p>THE COURT: UNDER THE RULE WE ADOPTED THE OTHER DAY HE WILL HAVE TO BE EXCUSED. SUTHERLAND: I INQUIRED ON THE OUTSET WHAT HAD BEEN THE PRACTICE. THE COURT: I STATED THAT THERE MIGHT BE PECULIAR CIRCUMSTANCE</p>	<p>COURT I HAVE SEEN HIM IN HERE THEN <sup>[[2]]</sup> BUT I WAS NOT AWARE THAT HE WAS A WITNESS</p> <p>UNDER THE RULE WE ADOPTED THE OTHER DAY HE WILL HAVE TO BE EXCLUDED. <i>[space]</i> I INQUIRED AT THE OUTSET</p> <p>I STATED THAT THERE MIGHT BE PECULIAR CIRCUMSTANCE</p>
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**RT**

**RS**

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**PS**

<p>HOGE APPEALED TO THE COURT AS TO THE NECESSITY OF WITNESSES' TESTIMONY FOR THE DEFENSE, AND THAT AS THE COURT AND COUNSEL HAD NOT BEEN AWARE OF HIS PRESENCE IN THE COURT, DESIRED THAT HE BE PERMITTED TO TESTIFY.</p>	<p>S IN THE CASE <del>←?→</del></p> <p>BY COURT I SAID IF THERE ARE SOME CIRCUMSTANCES CHANCE WHEREBY HE MIGHT BE EXCUSED SOMETHING OF THAT KIND BY HOGE {Q} WERE YOU NOTIFIED AT ANY TIME ←MR.</p>	<p>S IN THE CASE AND UNDER WHICH I WOULD _____ SUTHERLAND: BUT YOUR HONOR DIDN'T MENTION ANY RULE THAT WOULD BE ENFORCED.</p> <p>Q. (GOG) WAS YOU NOTIFIED AT ANY TIME, MR.</p>	<p>S</p> <p>UNDER WHICH I WOULD [space]</p> <p>I BELEIVE YOUR HONOR DIDN'T MENTION ANY RULE THAT WOULD BE ENFORCED. I AM [space]</p> <p>&lt;HOGE&gt; Q WAS YOU NOTIFIED AT ANY TIME MR.</p>
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**RT**

**RS**

**BT**

**PS**

<p>BASKIN: DIDN'T YOU KNOW THERE WAS SUCH A RULE OF THE COURT MADE AS TO <sup>[490]</sup> EXCLUDING WITNESSES ? A. YES SIR, BUT I DIDN'T KNOW I WAS WANTED</p> <p>COURT: I DON'T LIKE TO EXCLUDE ANY ONE, BUT</p> <p>HE WILL HAVE TO BE EXCUSED.</p>	<p>JACKSON&gt; TO LEAVE THE ROOM {A} NO SIR BY COURT I UNDERSTAND YOU TO SAY HE WAS &lt;SUTHERLAND&gt; I SAID I NOTIFIED SOME OF MY PARTIES TO HAVE HIM NOTIFIED AND I THOUGHT IT WAS DONE</p> <p>BASKIN {Q} i DID NOT YOU KNOW THERE WAS SUCH A RULE OF THE COURT MADE AS TO EXCLUDING WITNESSES {A} i YES SIR BUT I DIDN'T KNOW I WAS WANTED &lt;OR ONE OF HIS&gt; . &lt;?&gt; BY COURT I DON'T LIKE TO EXCLUDE ANYONE BUT</p> <p>HE WILL HAVE TO BE EXCUSED.</p>	<p>HJACKSON, TO LEAVE THE ROOM? A. NO, SIR, I WAS NOT. THE COURT: I UNDERSTOOD YOU TO SAY HE WAS . SUTHERLAND: I SAID I NOTIFIED SOME OF MY PARTIES TO HAVE HIM NOTIFIED; AND I THOUGHT IT WAS DONE.</p> <p>Q. (BASKIN) DON'T YOU KNOW THERE WAS SUCH A RULE OF THE COURT MADE, AS TO EXCLUDING WITNESSES? A. YES, SIR, BUT I DIDN'T KNOW I WAS WANTED, OR ONE OF HIS WITNESSES. <sup>[326]</sup> THE COURT: I DON'T LIKE TO EXCLUDE ANY ONE; BUT I AM RATHER INCLINED TO THINK THAT HE WILL HAVE TO BE EXCLUDED.</p>	<p>JACKSON TO LEAVE THE ROOM I WAS NOT [space] COURT I UNDERSTOOD IT HE WAS &lt;—[?]&gt; SUTHERLAND MADE THE REQUEST SOME OF MY ASSOCIATE COUNSEL AND THOUGHT IT HAD BEEN DONE &lt;I DID NOT KNOW MYSELF&gt; &lt;BASKIN&gt; DIDN'T YOU KNOW THERE WAS SUCH A RULE OF THE COURT MADE AS TO EXCLUDING WITNESSES A YES SIR BUT I DIDN'T KNOW I WAS ONE OF HIS WITNESSES. COURT I DON'T LIKE TO EXCLUDE ANY ONE BUT I AM RATHER INCLINED TO THINK FOR ONE —[?] THAT HE MAY HAVE TO BE EXCLUDED</p>
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**RT**

**RS**

**BT**

**PS**

<p>BISHOP: IF YOU RECOLLECT WE STATED AT THE TIME THAT OUR LIST WAS CALLED OVER WE COULD NOT TELL WHAT WITNESSES WE SHOULD WANT.</p>	<p>BISHOP IF YOU RECOLLECT WE STATED AT THE TIME OUR LIST WAS CALLED OVER WE COULD NOT TELL WHAT WITNESS WE SHOULD THEN WANT [space] THIS EVIDENCE IS UPON &lt;A&gt; KIND WE INTENDED TO BE INTRODUCED <del>AND IS</del> UPON POINT BROUGHT OUT BY PROSECUTION WE COULD NOT ANTICIPATE. NOT KNOWING THE WITNESS WE SUPPOSED OUR WITNESSES WERE OUT AND THINK IT WOULD BE HARDSHIP ON DEFENSE FOR US NOT HAVE RIGHT</p>	<p>BISHOP: IF YOU RECOLLECT WE STATED AT THE TIME OUR LIST WAS CALLED OVER, WE COULDN'T TELL ALL THE WITNESSES WE SHOULD THEN WANT THIS EVIDENCE AS INTENDED TO BE INTRODUCED IS UPON A POINT THAT HAS BEEN BROUGHT OUT BY THE PROSECUTION, AND A POINT WE COULD NOT ANTICIPATE, AND NOT KNOWING THE FACTS WE SUPPOSED OUR WITNESSES WERE OUT. I THINK IT WOULD BE A HARDSHIP ON THE DEFENDANT FOR US NOT TO HAVE THE RIGHT TO</p>	<p>BISHOP YOUR HONOR WILL RECOLLECT THAT WE COULD NOT TELL ALL THE WITNESSES WE WANT [space] THIS EVIDENCE IS INTENDED TO BE INTRODUCED UPON A POINT THAT HAS BEEN BROUGHT<sup>396</sup> OUT BY THE PROSECUTION AND A POINT WE COULD NOT ANTICIPATE AND NOT KNOWING THE WITNESS WE SUPPOSED ALL OUR WITNESSES WERE OUT. I THINK IT WOULD BE A HARDSHIP ON THE DEFENSE TO PREVENT OUR HAVING RIGHT TO</p>
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396. The shorthand from this point to the beginning of the testimony is smaller and written more closely together than other shorthand.

**RT**

**RS**

**BT**

**PS**

	<p>EXAMINE HIM TESTIMONY WE EXPECT TO INTRODUCE BY THIS WITNESS IS ON POINT WHICH HAS BEEN HERETOFORE INTRODUCED NOT UPON</p> <p>ANY FACT THAT TRANSPIRED AT THE SCENE BY COURT WAS IN REGARD TO ANY OTHER FACTS DETAILED WHILE HE WAS IN THE ROOM BY BISHOP I DO NOT KNOW.</p> <p>CAREY {*}<sup>i</sup> WHAT IS YOUR POINT ≤MR. BISHOP&gt;</p> <p>TO PROVE THAT HE TRADED EMIGRANTS SOME GRAIN [space] IT IS THE</p>	<p>ESXAMINE HIM. THE TESTIMONY WE EXPECT TO INTRODUCE BY THIS WITNESS IS UPON A POINT WHICH HAS BHERETOFORE BEEN INTRODUCED AND NOT UPON</p> <p>ANY FACT THAT TRANSPIRED AFTER. THE COURT: WAS IT IN REGARD TO ANY FACTS DETAILED WHILE IN THE ROOM ? BISHOP: I DO NOT KNOW.</p> <p>CAREY: ‡WHAT IS YOUR POINT, MR. BISHOP ‡ PROVE YOU EXPECT TO PROVE? BISHOP: THE POINT WE WISH TO PROVE IS THAT HE TRADED THE EMIGRANTS SOME GRAIN, AND IT IS THE</p>	<p>EXAMINE THEM.</p> <p>IS ON POINT ON POINT THAT NO PREVIOUS TESTIMONY WOULD <i>FLTN</i>[?] HIM ON IT IS NOT ABOUT ANY FACT THAT TRANSPIRED AT THE SCENE. [space] WAS IT IN REGARD TO ANY FACT THAT WAS DETAILED WHILE HE WAS IN THE ROOM. ≤I DO NOT KNOW&gt; IF HE WAS ON ANY POINT HE HAS NOT BEEN PARTY I WOULD NOT EXCLUDE HIM [space]</p> <p>THE</p>
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**RT**

**RS**

**BT**

**PS**

<p>BASKIN: THEN WE WILL WITHDRAW OUR OBJECTION.</p> <p>Q. WHERE DID YOU RESIDE IN 1857, MR. JACKSON ?</p> <p>A. IN CEDAR CITY, IN SEPTEMBER.</p> <p>Q. DO YOU KNOW</p>	<p>ONLY POINT WE WISH TO INTRODUCE HIM FOR IS TO SHOW HE LIVED IN THE COUNTRY AT THAT TIME AND TRADED WITH THE EMIGRANTS? {*}<sup>i</sup> AS <del>THEY</del> PASSED THROUGH THE COUNTRY</p> <p>BY BASKIN WILL WITHDRAW OUR OBJECTION</p> <p>BY COURT PROCEED WITH WITNESS, AND HE WITHDREW AS TO THIS WITNESS OF COURSE. {Q}<sup>i</sup></p> <p>WHERE DID YOU RESIDE MR. JACKSON 57 {A}<sup>i</sup> CEDAR CITY SEPTEMBER CEDAR CITY {Q}<sup>i</sup> DID YOU KNOW</p>	<p>ONLY POINT WE SWISHED TO <del>IM</del>NTRODUCE HIM FOR; IS TO SHOW HE LIVED IN THE COU<del>LN</del>TRY AT THE TIME, AND TRADED WITH THESE EMIGRANTS AS THEY PASSED THROUGH THIS COUNTRY.</p> <p>BASKIN: WE WILL WITHDRAW OUR OBJECTION, THEN.</p> <p>THE COURT: PRO <del>CEED</del> WITH THE WITNESS, THE ORDER IS WITHDRAW<del>SN</del> AS TO THIS WITNESS, OF COURSE. Q. WHERE DID YIU RESIDE, MT. JACKSON, IN '57? A. CEDAR CITY, SSEPTEMBER, CEDAR CITY .</p> <p>Q. DIAD YOU KNOW</p>	<p>ONLY POINT WE WISHED TO INTRODUCE HIM FOR SHOW THAT HE LIVED IN THIS COUNTRY AND HAD TRADED WITH THESE EMIGRANTS AS THEY PASSED THROUGH. [space] <del>COURT</del> DOES THE PROSECUTION WITHDRAW THEIR OBJECTION BASKIN WE WILL WITHDRAW OUR OBJECTION AS TO THIS WITNESS. [space]</p> <p>WHERE DID YOU RESIDE IN 1857 CEDAR CITY</p> <p>DID YOU KNOW</p>
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**RT**

**RS**

**BT**

**PS**

<p>ANYTHING ABOUT AN EMIGRANT TRAIN</p> <p>KNOWN AS THE ARKANSAS</p> <p>A. I SAW SOME OF THE COMPANY IN CEDAR CITY. Q. DID YOU HAVE ANY TRANSACTION WITH THEM ? BASKIN: I OBJECT TO THAT.</p>	<p>ANYTHING ABOUT EMIGRANT TRAIN</p> <p>KNOWN AS ARKANSAS TRAIN <del>←</del>PASSING THROUGH AND KNOWN AS THE ARKANSAS TRAIN <del>⇒</del> {A} I SAW SOME OF COMPANY IN CEDAR {Q} DID YOU HAVE ANY TRANSACTION WITH THEM BASKIN I OBJECT TO THAT IF THEY INTEND TO PROVE WHAT THEY FORESHADOWED IN THEIR STATEMENT, BECAUSE THIS STM/—[?] MAY HAVE TRADED WITH THEM IN VIOLATION OF THIS GENERAL ORDER CAREY THE ORDER WAS MADE HERE, BUT THE QUESTION IS SHOW ANIMUS OF CERTAIN</p>	<p>ANYTHING ABOUT THE EMIGRANT TRAIN PASSING THROUGH KNOWN AS THE ARKANSAS TRAIN? <del>PASSING THROUGH?</del></p> <p>A. I SAW SOME OF THE COMPANY IN CEDAR CITY. Q . DID YOU HAVE ANY TRANSACTION WITH THEM? BASKIN. WE OBJECT TO THAT. IF THEY INTEND TO PROVE <b>WHAT</b> <del>THAT</del> THEY FORSHADOWED IN THEIR STATEMENTS BECAUSE THIS WITNESS MAY HAVE <sup>[327]</sup> TRADED WITH THEM IN VIOLATION OF THIS GENERAL ORDER. CAREY: THE ORDER WAS MADE HERE, BUT THE QUESTION IS TO <del>W</del>SHOW THE ANIMUS OF CERTAIN</p>	<p>ANYTHING ABUT THE EMIGRANT TRAIN PASSING THROUGH THERE KNOWN AS ARKANSAS TRAIN</p> <p>I SAW SOME OF THE COMPANY IN CEDAR CITY DID YOU HAVE ANY TRANSACTION WITH THEM WE OBJECTED TO IF THEY INTEND TO PROVE WHAT THEY FORSHADOWED IN THEIR STATEMENT BECAUSE THIS WITNESS MAY HAVE TRADED WITH THEM IN VIOLATION OF THIS GENERAL <del>←</del>ORDER <del>→</del> [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>HOGE IN ANSWER: MR. SMITH TESTIFIES SUCH WERE THE ORDERS AND THOSE THAT VIOLATED SUCH ORDERS WAS TO BE CUT FROM THE CHURCH.</p>	<p>PARTIES COUPLING IT WITH THIS CONSPIRACY WORDS OF THOSE PARTIES IS TO SHOW ANIMUS OF THEIR MIND AGAINST THIS COMPANY ANYONE VIOLATING THAT ORDER DOES NOT PROVE THEY DID NOT MAKE IT. HOGE. MR. SMITH TESTIFIES SUCH WAS {THE}<sup>1</sup> ORDERS AND THEN VIOLATES SUCH ORDERS THEY WAS TO BE CUT FROM THE CHURCH. BY BASKIN IT MIGHT NOT HAVE BEEN KNOWN [space] HOGE MORE THAN THAT HE ATTENDED MEETINGS THERE NEVER HEARD ANY SUCH ORDERS NEVER WAS DEALT</p>	<p>PARTIES COUPLING IT WITH THIS CONSPIRACY— WORDS OF THESE PARTIES IS TO SHOW THE ANIMUS OF  THIS COMPANY. ANY ONE VIOLATING THAT ORDER DOESN'T PROVE THEY DIDN'T MAKE IT. HOGE: MR. SMITH TESTIFIES , SUCH WERE THE ORDERS, AND THEN VIOLATES SUCH ORDERS. THEY WERE TO BE CUT OFF FROM THE CHURCH.</p>	<p>HOGE [space] SMITH TESTIFIED THAT SUCH ORDERS WERE MADE AND THESE THAT VIOLATED THEM  CUT OFF THE CHURCH.  HE ATTENDS MEETINGS THERE AND NEVER HEARD ANY SUCH ORDER-</p>
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**RT**

**RS**

**BT**

**PS**

<p>COURT OVERRULED THE OBJECTION OF THE PROSECUTION. Q. DID YOU HAVE ANY</p> <p>BUSINESS TRANSACTIONS WITH THESE EMIGRANTS ? A. I CAN'T REMEMBER IF I DID THEN.</p> <p>Q. DID YOU SEELL THEM ANY WHEAT OR BRAD STUFFS THERE ? A. I CANNOT REMEMBER SIR.</p> <p>BISHOP GAVE</p>	<p>WITH BY THE CHURCH <sup>[[27]]</sup></p> <p>THIS EVIDENCE WILL GO TO DISPROVE TESTIMONY HOAG [space] MR. SMITH'S BY COURT YOU MAY ASK THE QUESTION ANYWAY [space]</p> <p>{Q} DID YOU HAVE ANY</p> <p>BUSINESS TRANSACTIONS WITH THESE EMIGRANTS {A} I I CAN'T REMEMBER IF I DID THEN [space]</p> <p>{Q} DID YOU SELL THEM ANY WHEAT OR PROVISIONS THERE =&lt;?&gt; {A} I CAN'T REMEMBER SIR BY DEFENSE THAT IS ALL [space] BY PROSECUTION THAT IS ALL BY COURT CALL YOUR NEXT WITNESS [space] BISHOP</p>	<p>THE COURT: YOU MAY ASK THE QUESTION ANY WAY.</p> <p>Q. DID YOU HAVE ANY TRANSACTION WITH THESE EMIGRANTS — BUSINESS TRANSACTIONS WITH THESE EMIGRANTS. A. I CAN'T REMEMBER IF I DID THEN, I MIGHT HAVE DONE. Q. DID YOU SEELL THEM ANY WHEAT OR PROVISIONS THERE ? A. I CANNOT REMEMBER , SIR. THAT IS ALL NO CROSS- EXAMINATION.</p>	<p>I WANT TO CONNECT IT WITH MR. SMITH'S TESTIMONY <del>BASKIN MR.</del> <del>SMITH</del> COURT YOU MAY ASK HIM QUESTION [space]</p> <p>DID YOU HAVE ANY TRANSACTION WITH THESE EMIGRANTS BUSINESS TRANSACTIONS</p> <p>I CAN'T REMEMBER I MIGHT HAVE DONE. DID YOU SELL THEM ANY WHEAT OR PROVISIONS I CANNOT REMEMBER SIR [space]</p> <p>BISHOP</p>
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**RT**

**RS**

**BT**

**PS**

<p>NOTICE TO THE COURT THAT THEY HAD ONE OR TWO MORE WITNESSES THAT THEY DESIRED TO PUT ON THE STAND BUT THEY HAD NOT YET ARRIVED AND</p> <p>FOR THE PURPOSE OF SAVING OUR RIGHTS TO THE INTRODUCTION OF THIS TESTIMONY HE GAVE THE NOTICE THEN AND ASKED THAT WHEN THEY CAME IN THEY BE PERMITTED TO TESTIFY.</p>	<p>IF THE COURT PLEASE WE HAVE SENT FOR ONE OR TWO WITNESSES WHO</p> <p>HAVE NOT YET ARRIVED <del>TAKE</del> &lt;LOSE OUR&gt; &lt;AND IT WILL NOT TAKE MORE THAN AN HOUR LONGER&gt;</p> <p>FOR PURPOSE OF SAVING OUR RIGHTS TO THE INTRODUCTION OF CERTAIN TESTIMONY,</p> <p>≤AS WE PROPOSE TO INTRODUCE AND WE ASK THE PRIVILEGE≥ OF OFFER CERTAIN</p>		<p>IF THE COURT PLEASE WE HAVE SENT FOR ONE OR TWO WITNESSES WHO</p> <p>HAVE NOT YET ARRIVED</p> <p>AND IT WILL NOT TAKE MORE THAN AN HOUR LONGER <sup>[[3]]</sup> WITNESSES[?] TO INTRODUCE SUCH TESTIMONY AS WE PROPOSE TO INTRODUCE AND FOR PURPOSE OF SAVING OUR RIGHTS TO THE INTRODUCTION OF CERTAIN TESTIMONY</p> <p>PRIVILEGE TO OFFER CERTAIN</p>
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**RT**

**RS**

**BT**

**PS**

<p>COURT: IF THE ATTORNEYS HAVE BEEN CONSULTED ON BOTH SIDES AND ARE AGREED, IT WILL BE ALL RIGHT. <sup>[491]</sup></p>	<p>TESTIMONY WE EXPECT TO HAVE HERE TONIGHT. WE WOULD NOW ASK COURT TO CONSENT TO AN ADJOURNMENT UNTIL MONDAY MORNING, WE WILL THEN OFFER SUCH TESTIMONY AS WILL COMPLETE OUR EVIDENCE WE THINK SO NOW [space] WE MAY CHANGE OUR OPINION. BY COURT HAVE THE ATTORNEYS  CONSULTED ON BOTH SIDES AS TO WHETHER THEY WISH THAT THEY WISH TO HAVE RULE CHANGED, WE HAVE A RULE IN THIS <del>TRIAL</del> &lt;COURT&gt; IN REGARD TO GIVING INSTRUCTIONS. I HAVE NO OBJECTIONS SO FAR AS I AM CONCERNED TO WAIVING IT</p>		<p>TESTIMONY THAT WE EXPECT TO HAVE HERE TONIGHT NOW ASK THE COURT  ADJOURN UNTIL MONDAY MORNING AND WILL THEN. I THINK WE WILL CLOSE IN AN HOUR WE THINK  SO NOW.  COURT<sup>397</sup> HAVE THE ATTORNEYS  ON BOTH SIDES CONSULTED AS TO WHETHER  WISH THE RULE CHANGED  THE RULE  IN REGARD TO THE GIVING OF INSTRUCTIONS I HAVE NO OBJECTION  TO WAIVE IT I</p>
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397. Word is circled.

**RT**

**RS**

**BT**

**PS**

	<p>UNLESS IT IS CONSENTED TO BY PARTIES FROM BOTH SIDES [space] WHATEVER CHARGE I PROPOSE TO GIVE ALWAYS RESERVING [space]</p> <p>FOR INSTANCE IF HE DID NOT RECESS COURT HAVE OVERLOOKED ANY ARGUMENT GIVING INSTRUCTIONS ON THAT POINT [space] I WILL READ ABOUT SUBSTANCE OF OUR RULES HERE WE HAVE ALWAYS HAD BASKIN I THINK THAT IS DECIDED BY PAST PRACTICE [space] THAT IS THE RULE [space]</p> <p>BISHOP WE UNDERSTAND THAT</p>		<p>WOULD NOT DO SO EXCEPT BY CONSENT OF ATTORNEYS ON BOTH SIDES [space] OUR RULE HERE IS TO GIVE WHATEVER <i>DIRECTION</i>[?] I HAVE ALWAYS RESERVE INSTRUCTION <i>TNT/—</i>[?] <i>DR</i>[?] FOR INSTANCE IF HE DID NOT RECESS IF THE COURT HAD OVERLOOK</p> <p>INSTRUCTION ON THE POINT I READ <i>UPON</i>[?] SUBSTANCE OF THE RULE WE HAVE ALWAYS HAD</p> <p>THAT IS THE RULE WE HAVE GENERALLY HAD [space] <del>IF</del> <del>THE COURT</del> BISHOP WE UNDERSTAND THAT AND IF THE GENTLEMEN</p>
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**RT**

**RS**

**BT**

**PS**

	<p>WE ARE SATISFIED COURT SHALL HAVE UNTIL AFTER THE ARGUMENT CLOSES TO SUBMIT THE INSTRUMENT [space] I WOULD LIKE TO HAVE IT SETTLED NOW OTHERWISE IT WILL TAKE OVER ANOTHER DAY OR PROBABLY <i>WE/HE[?]</i> CAN DECIDE IT MONDAY MORNING BISHOP MY ONLY OBJECTION IS THIS IT WILL TAKE US A DAY TO PREPARE OUR INSTRUCTIONS THAT CAN AS WELL BE DONE ANY POINT</p> <p>ARGUING BY COUNSEL SUBMITTING AUTHORITIES, TO YOUR HONOR AND IN SUPPORT OF</p>		<p>FOR THE PROSECUTION WERE WILLING WE ARE SATISFIED THAT THE COURT SHALL HAVE UNTIL AFTER THE ARGUMENT CLOSES TO SUBMIT INSTRUCTION.</p> <p>OTHERWISE IT WOULD TAKE OVER ANOTHER DAY</p> <p>YOU CAN DECIDE ON MONDAY MORNING [space] BISHOP MY ONLY OBJECTION IS THIS IT WILL TAKE A DAY TO <i>SETTLE/STATE[?]</i> THE INSTRUCTIONS AND THAT CAN AS WELL BE BE DONE IN AN ARGUMENT <i>UPON/POINT[?]</i> ARGUMENT BY</p> <p>SUBMITTING AUTHORITIES TO YOUR HONOR IN SUPPORT OF</p>
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**RT**

**RS**

**BT**

**PS**

	<p>INSTRUCTIONS THEY WILL ASK</p> <p>IT WILL SAVE TIME I WOULD PREFER IT <math>\leq</math>TO BE <math>\geq</math> DONE THAT WAY IF GENTLEMAN ASKS TO SETTLE INSTRUCTIONS BEFORE WE ARE WILLING [<i>space</i>] BY COURT IF THERE IS</p> <p>AGREEMENT DEFINITE IT WILL SAVE TIME [<i>space</i>] BY DEFENSE WE DO NOT CARE.</p> <p>BASKIN I UNDERSTAND RULE IS FOR</p> <p>COURT TO CHARGE JURY BEFORE INSTRUCTIONS BY DEFENSE WE ACCEPT THAT [<i>space</i>] WE DO NOT WISH RULE</p>		<p>THE INSTRUCTIONS THEY SHALL GIVE I THINK THAT IS THE <i>PRM/PRL</i>[?] GENERALLY ADOPTED [<i>space</i>] I BELIEVE IT WOULD SAVE TIME I WOULD PREFER IT TO BE DONE YET IF THE GENTLEMAN [<i>space</i>]</p> <p>COURT IF THERE IS <i>IN/ANY</i>[?] ARGREEMENT ABOUT IT THE INSTRUCTION SHALL BE SETTLED <i>BEFORE</i>[?] ARGUMENT. CAREY SETTLE CONSIDERATIO N IN THE FIRST PLACE. BASKIN I UNDERSTAND THAT THE <i>PRLT</i>[?] OF THE COURT IS TO CHARGE THE JURY BEFORE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CHANGED.</p> <p>SUTHERLAND I WOULD LIKE TO MAKE AN INQUIRY BECAUSE I HAVE <i>NO/ANY</i>[?] OBJECTION. COURT READ ALL INSTRUCTIONS BE WRITTEN ON ONE SIDE OF PAPER ONLY [space] <sup>[[28]]</sup> BY HOGE I UNDERSTAND YOUR HONOR TO EXTENT THAT RULE <del>WAS</del> ALLOWS IF ANY COUNSEL WISH TO CHANGE RULE IF ANY COUNSEL WISH TO CHANGE THE YOU WILL PERMIT THEM TO DO SO.</p>		<p>ANY ARGUMENT BECAUSE ATTORNEYS THEN MUST KEEP THEMSELVES WITHIN THE SCOPE OF THE INSTRUCTION [space] SUTHERLAND I WOULD LIKE TO MAKE AN INQUIRY</p> <p>≪COURT≫ READ ALL THE <del>INSTRUCTION</del> RULE WE HAVE. [space]</p> <p>COURT THE RULE WE HAVE BEEN <i>GIVEN</i>[?] I HAVE SOMETIMES</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BY COURT PARTY THAT GOES TO JURY ON THAT POINT TAKES VIEW THAT THE OPPOSITE SIDE CAN'T AGREE TO AND ASK THE COURT TO GIVE INSTRUCTION ON THAT POINT</p> <p>FOR THEY MAY ALL INTRODUCE <i>PST/PASSED</i>[?] POINT BEFORE THE CASE GOES TO JURY. BY COURT I SHALL CONFINE COUNSEL TO LAW AS GIVEN BY COURT. BY SUTHERLAND WILL HAVE TO THEY</p>		<p>ALLOWED THEM TO DO AFTERWARDS &lt;HOGE&gt; TESTIMONY SOMETIMES ARISES THAT BOTH SIDES OVERRULE <i>LIKE/LOOK</i>[?] <i>[space]</i></p> <p>COURT THE PARTY THAT GOES TO THE JURY ON THAT POINT TAKES <i>VIEW</i>[?] <sup><i>[14]</i></sup></p> <p>ASK THE COURT ON GIVING INSTRUCTION ON THAT POINT AND THE COURT DOES IT <i>[space]</i> OR IS IT BETTER FOR THEM TO INTRODUCE</p> <p><i>BEFORE</i> <i>[space]</i></p> <p>YOU CONFINE COUNSEL TO THE LAW AS GIVEN BY THE COURT <i>[space]</i> EXPECT THEY WILL HAVE TO <i>KTN/CONTAIN</i>[?] IN IT AS FAR AS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BE          CONFINED          TO THEM OR          THEY MAY          INDICT RULE          UPON SOME          ADDITIONAL          PRINCIPLES BY          COURT ANY          ADDITIONAL          PRINCIPLES          WILL BE IN          CONFLICT WITH          THIS BY COURT          IF ANY OTHER          POINT OF LAW          IS REFERRED TO          AND          OTHER          PARTIES DON'T          AGREE          THEY MAY          GET UP AND          ASK COURT          TO ARGUE THAT          QUESTION.</p> <p>BY BASKIN          BEFORE AGREE          COURT MUST          FIRST SETTLE          THE RULE. BY          COURT IF          INSTRUCTIONS          IS GIVEN          AFTERWARDS IT          IS AN          EXCEPTIONAL          CASE.</p>		<p>THEY GO HE          HAD CONFINED          TO THEM THAT          THEY MAY          RULE          UPON SOME          ADDITIONAL          PRINCIPLES <del>N</del>          THE COURT ANY          ADDITIONAL          [space]</p> <p>IF ANY OTHER          POINT OF LAW          IS REFERRED TO          AND THE          OPPOSITE          PARTY DOES          NOT AGREE TO          IT THEY MAY          GET UP AND          ASK THE COURT          TO HAVE THE          INSTRUCTION          ON THAT          SUBJECT.</p> <p>IF THE          INSTRUCTION          IS GIVEN          AFTERWARDS IT          IS AN          EXCEPTIONAL          CASE THE          GENERAL RULE          NS/ONCE[?]          GIVEN          AFTERWARDS</p>
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**RT**

**RS**

**BT**

**PS**

	<p>BASKIN IN OTHER WORDS</p> <p>ATTORNEYS ARE CONFINED IN THEIR DISCUSSIONS OF LAW TO INSTRUCTIONS OF COURT IF ANY NEW QUESTION ARISES THE COURT SETTLES IT AND THEY MUST THEN CONFINE THEMSELVES TO JUDGMENT OF COURT AS HE SETTLES IT. [space] BY COURT. BISHOP I WILL ASK PROSECUTION IF THEY</p> <p>WISH TO RECALL ANY WITNESS THAT HAVE BEEN INTRODUCED ON PART OF DEFENSE? [space] THE REASON I MAKE THIS SO MANY THAT ARE HERE MAY GO HOME ←CAREY IN ANSWER TO BISHOP IF YOU</p>		<p>[space] THAT IS IN OTHER WORDS THE ATTORNEYS ARE CONFINED IN THEIR DISCUSSIONS OF LAW TO THE INSTRUCTION OF THE COURT [space]</p> <p>ASK THE GENTLEMAN IF THE PROSECUTION FEEL NEED OR WISH TO RECALL ANY WITNESS</p> <p>ON THE PART OF DEFENSE [space]</p> <p>CAREY BISHOP IF YOU</p>
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**RT**

**RS**

**BT**

**PS**

<p>ADJOURNED UNTIL MONDAY MORNING AT NINE O’CLOCK</p> <p>MONDAY, AUGUST 2ND 1875. 9 O’CLOCK A.M.</p>	<p>DON’T EXPECT TO EXAMINE ANY MORE WITNESSES&gt; [space] BY CAREY WE DO NOT KNOW WHAT WITNESSES WE EXPECT TO EXAMINE WE CAN’T TELL [space] BY COURT WITNESSES MARSHAL HAD BETTER REMAIN UNTIL MONDAY, AS THE WHOLE MATTER WILL BE SETTLED ON MONDAY</p> <p>ADJOURNED COURT UNTIL <b>MONDAY</b> <b>MNG AT</b> <b>9 OCLOCK</b> [space]</p> <p><sup>[[29]]</sup> <b>MONDAY,</b> <b>M’NG JUL AUG</b> <b>2ND 1875 9 15</b> <b>AM.</b> [space]</p>	<p>COURT ADJOURNED TILL MONDAY</p> <p>9 A.M. AUGUST 2ND<sup>2</sup>, 1887&amp;5. — ———OOOOO—— ———</p> <p>MONDAY , AUGUST 2ND<sup>2</sup>, NINE A.M.</p> <p>COURT MET PURSUANT TO ADJOURNMENT.</p>	<p>DO NOT EXPECT TO EXAMINE ANY MORE WITNESSES</p> <p>WE DO NOT [space] .</p> <p>CAREY WE OF COURSE CAN’T TELL.</p> <p>WITNESSES</p> <p>BETTER REMAIN UNTIL MONDAY AND THE WHOLE MATTER BE SETTLED ON MONDAY [space] COURT WELL THEY HAD BETTER STAY [space] COURT ADJOURNED UNTIL MONDAY MORNING 9 O’CLOCK [space]</p> <p><b>MONDAY</b> <b>AUG</b> <b>2ND 75</b> [space]</p>
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**RT**

**RS**

**BT**

**PS**

	<p>CLERK READ MINUTES OF THE PROCEEDINGS MONDAY JULY 26 AND 27<sup>TH</sup>, 28<sup>TH</sup>, 29<sup>TH</sup>, &amp; 30<sup>TH</sup> TO WHERE COURT ADJOURNED UNTIL MONDAY MORNING 9 O’CLOCK. SUTHERLAND MADE REMARK CORRECTING CLERK WHO WAS READING ITEM RESPECTING OBJECTION OF DEFENSE TO JURORS AND CORRECTING IT TO READ “SINCE FIRST JANUARY 1875” TO THE PRESENT TIME. MR. SUTHERLAND TOOK A SEALED PACKAGE FROM THE CLERK’S DESK AND ASKED PERMISSION TO OPEN AS IT WAS ADDRESSED TO [space] CLERK CALLED NAMES OF THE JURORS ALL PRESENT. 3 LETTERS WERE</p>	<p>JURY CALLED, ALL PRESENT.</p>	<p>JURY CALLED ALL PRESENT [space]</p>
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**RT**

**RS**

**BT**

**PS**

<p>SUTHERLAND: ANNOUNCED TO THE COURT THAT HE HAD JUST RECEIVED THE</p> <p>DEPOSITIONS OF BRIGHAM YOUNG AND GEORGE A. SMITH, THE ORIGINAL AFFIDAVITS,WHI CH WERE FILED.</p> <p>WE HAVE SERVED A COPY</p> <p>ON THE OPPOSITE PARTY,</p>	<p>HANDED BY JUDGE BOREMAN TO MR. DUFFIN ONE OF WHICH JUDGE HANDED TO PROSECUTION FOR THEIR PERUSAL. 9.30 <b>AM</b> COURT REQUESTED GENTLEMEN TO PROCEED WITH TRIAL [space] SUTHERLAND. I HAVE JUST ARRIVED DIRECTED TO CLERK OPENED</p> <p>WITH YOUR HONOR'S CONSENT DEPOSITION OF BRIGHAM YOUNG GEORGE A SMITH AN ORIGINAL AFFIDAVIT WHICH WAS FILED IN THE FORM OF A TELEGRAM OTHER DAY IS HERE I HAD A COPY OF THE NOTICE &lt;THAT WAS&gt; SERVED ON OPPOSITE PARTY FOR</p>	<p>SUTHERLAND: I HAVE JUST R3ECEIVED JDIRECTED TO THE CLERK AND</p> <p>WITH YOUR HONORS CONSENT, THE DEPOSITIONS OF BRIGHAM YOUN G AND GEORGE A. SMITH, AN ORIGINAL AFFIDAVIT WHICH WAS FILED IN THE FORM OF A TELEGRAN THE OTHER DAUY HHERE, AND I HAD A CPOY OF THE NOTICE THAT WAS SERVED ON THE OPPOSITE PARTY FOR</p>	<p>SUTHERLAND THERE HAS JUST ARRIVED DIRECTED TO THE CLERK AND NOW I WILL WITH YOUR HONORS CONSENT THE DEPOSITIONS OF BRIGHAM YOUNG AND GEORGE A SMITH AN ORIGINAL AFFIDAVIT THAT WAS FILED IN THE FORM OF A TELEGRAPHER THE OTHER DAY IS HERE AND I HAVE A COPY OF THE NOTICE THAT WAS SERVED ON THE OPPOSITE PARTY FOR</p>
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**RT**

**RS**

**BT**

**PS**

<p>AND ASK THAT THEY BE ACCEPTED AS TESTIMONY WITH THE CERTIFICATES OF THE PHYSICIANS ACCOMPANYING, THAT BRIGHAM YOUNG WAS NOT ABLE AT THAT TIME TO MAKE THE TRIP AND THAT GEORGE A. SMITH WAS SERIOUSLY ILL AND HAD BEEN FOR WEEKS PAST AND ASKED THAT THEY BE THEN READ AND OFFERED IN EVIDENCE.</p>	<p>TAKING DEPOSITION CONTAINED ALSO OFFER TO PAY <del>ALL THE</del> CHARGE OF {AND}<sup>1</sup> OF TELEGRAPHING ON THE PART OF THE PEOPLE ATTORNEY AT SALT LAKE CITY ATTORNEYS TO CROSS EXAMINE AND ALSO THE DEPOSITIONS</p> <p>WE DESIRE TO FILE THE</p>	<p>TAKING THE DEPOSITIONS CONTAINING ALSO AN OFFER TO PAY ALL THE CHARGE OF TELEGRAPHING, ON THE PART OF THE PEOPLE'S ATTORNEY AT SALT LAKE CITY, AND ATTORNEYS TO <del>CRE</del> CROSS EXAMINE, AND ALSO THE DEPOSITIONS.</p> <p>WE DESIRE TO FILE THE</p>	<p>TAKING THE DEPOSITION CONTAINING ALSO AN OFFER TO ALL THE CHARGES</p> <p>ON THE PART OF THE PEOPLE FOR ATTENDING</p> <p>TO CROSS EXAMINE AND ALSO THE DEPOSITIONS</p> <p>I DESIRE TO FILE THE</p>
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**RT**

**RS**

**BT**

**PS**

	<p>AFFIDAVIT OF THE PHYSICIAN SHOWING THEIR INABILITY TO ATTEND PERSONALLY COPY OF NOTICE SERVED [space] BY COURT FILE ALL THE PAPERS. <del>≤SUTHERLAND≥</del> I DESIRE TO FILE THEM WITH DEPOSITIONS BY COURT YES. IF COUNSEL ON OTHER SIDE <del>≤WISH≥</del> TO EXAMINE THEM IF THEY</p> <p>SEE PROPER [space] AFFIDAVIT OF THE PHYSICIAN IS THE SAME AS CAME BY TELEGRAPH. SUTHERLAND</p> <p>HAVE YOU ANY OBJECTIONS.</p>	<p>AFFIDAVIT OF A PHYSICIAN <del>THEIR</del> SHOWING THEIR INABILITY THO ATTEND PERSONALLY AND A COPY OF THE NOTICE €SERVED. COURT: FILE ALL THE PAPERS. [328] SUTHERLAND: I DESIRE TO FILE THEM WITH THE DEPOSITIONS. THE COURT: YES, IF THE COUNSEL ON THE OTHER SIDE WISH TO EXAMINE THEM, LET THEM</p> <p>DO SO, IF THEY SEE PROPER. SUTHERLAND: THE AFFIDAVIT OF THE PHYSICIAN ISTHE SAME AS CAME BY TELEGRAM.</p> <p>HAVE YOU ANY OBJECTIONS.</p>	<p>AFFIDAVIT OF THE PHYSICIAN SHOWING THEY ARE UNABLE TO ATTEND PERSONALLY AND COPY OF THE NOTICE SERVED [space] COURT FILE ALL THE PAPERS [space]</p> <p>I DESIRE THIS TO BE FILED WITH THE DEPOSITIONS [space] [5]398 COUNSEL ON THE OTHER SIDE DESIRE TO LOOK AT THE DEPOSITIONS BEFORE MY/HIM[?] OFFER THEY CAN DO SO [space]</p> <p>THE AFFIDAVIT OF THE PHYSICIAN IS THE SAME AS CAME BY TELEGRAM. [space] DEPOSITION OFFERED IN EVIDENCE [space]</p>
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398. The verso of page 5 includes profiles of unidentified men.

**RT**

**RS**

**BT**

**PS**

<p>OBJECTED TO BY PROSECUTION. AFTER FURTHER ARGUMENT AS TO THE RELEVANCY THE OBJECTION WAS SUSTAINED EXCEPT BY DEFENDANT [space]</p>	<p>CAREY YES SIR WE HAVE DECIDED OBJECTIONS CAREY WE OBJECT TO THE READING BASKIN THE NOTICE HAS NOT BEEN CALLED TO YOUR HONOR ATTENTION. THEY GIVE US NOTICE TO</p> <p>TAKE DEPOSITIONS 250 MILES AWAY AT TWELVE CLOCK NEXT DAY. BY COURT THEY SAID IT WOULD NOT BE TAKEN UNTIL NEXT MORNING. I SUPPOSE OBJECT IS TO</p>	<p>CAREY: YES, WE HAVE DECIDED OBJECTIONS. WE OBJECT TO THE READING. BASKIN: THE NOTICE HAS NOT BEEN CALLED TO YOUR HONORS ATTENTION. THEY GAVE US NOTICE TO</p> <p>TAKE DEPOSITIONS † 250 MILES AWAY AT 12 O’CLOCK THE NEXT DAY. THE COURT: THEY SAID IT WOULDNOT BE TAKEN TILL THE ENEXT MORNING, I SUPPOSE THE OBJECT IS TO</p>	<p>OBJECTED TO [space]</p> <p>BASKIN THE NOTICE HAS NOT BEEN CALLED TO YOUR HONOR</p> <p>THEY GIVE US NOTICE ONE DAY 11 O’CLOCK/AT 1 O’CLOCK[?] TO TAKE DEPOSITION AT SALT LAKE CITY</p> <p>NEXT ≤12≥ DAY. [space] COURT</p> <p>I SUPPOSE THE OBJECT IS TO</p>
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**RT**

**RS**

**BT**

**PS**

<p>JOHN M. MACFARLANE , SWORN FOR DEFENSE</p> <p>Q. HOW LONG HAVE YOU LIVED IN THIS TERRITORY ?</p>	<p>SAVE THEIR EXCEPTION SAME RULING SAME QUESTION PASSED &lt;UPON&gt; OTHER DAY BY COURT OBJECTIONS OF THE PROSECUTION WILL BE SUSTAINED BY COURT JUST BRING ALL THE PAPERS AND FILE (AS EVIDENCE.) &lt;?&gt; 9.51 AM THEY WERE FILED. BY COURT ARE YOU READY TO PROCEED IN THIS CASE SUTHERLAND A MOMENT YOUR HONOR. —</p> <p>[space] <b>JNO. M. MACFARLANE</b> BY <u>SUTHERLAND</u> WILL YOU TAKE <u>THE STAND.</u></p> <p>{q}<sup>i</sup> HOW LONG HAVE YOU LIVED &lt;IN&gt; THIS TERRITORY ?</p>	<p>SAVE THEIR EXCEPTION. SAME RULING, SAME QUESTION PASSED UPON THE OTHER DAY .</p> <p>THE OBJECTION OF THE PROSECUTION WILL BE SUSTAINED. JUST BRING ALL THE PAPERS AND FILE THEM.</p> <p>JOHN M.MC FARLANE BEING CALLED AS A WITNESS ON THE PART OF THE DEFENSE TESTIFIED AS FOLLOWS. <del>DIRECT</del> EXAMINATION BY <del>SUTHERLAND:</del> Q . HOW LONG HAVE YOU LIVED IN THIS TERRITORY?</p>	<p>SAVE THEIR EXCEPTION IT IS THE SAME RULING SAME QUESTION THAT WAS PASSED UPON OTHER DAY [space] OBJECTION</p> <p>SUSTAINED. EXCEPTION [space]</p> <p><b>JOHN M MCFARLANE</b> RECALLED [space]</p> <p>HOW LONG HAVE YOU LIVED IN THIS TERRITORY</p>
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## RT

## RS

## BT

## PS

<p>A. ABOUT TWENTY THREE YEARS. Q. HOW MUCH OF THAT TIME HAVE YOU LIVED IN SOUTHERN UTAH? A. ABOUT 22 NEARLY. Q. DO YOU KNOW JOHN MANGRAM? A. YES SIR. Q. WHERE DOES HE LIVE? A. HE LIVES AT THE PAHREAH,<sup>399</sup> NEAR THE <del>WESTERN</del> EASTERN FRONTIER OF UTAH. <sup>[492]</sup> Q. DO YOU KNOW IRA ALLEN? A. YES SIR. Q. WHERE DOES HE LIVE? A. I BELIEVE HE LIVES IN CACHE VALLEY SOMEWHERE. Q. DO YOU KNOW MC MURDY? A. YES SIR. Q.</p> <p>WHERE DOES HE LIVE? A. IN CACHE VALLEY,</p>	<p>{A}<sup>1</sup>ABOUT 23 YEARS {Q}<sup>1</sup>HOW MUCH THAT TIME HAVE YOU LIVED IN SOUTHERN UTAH {A}<sup>1</sup> ABOUT 22 NEARLY {Q}<sup>1</sup>DO YOU KNOW JOHN MANGRAM {A}<sup>1</sup> YES SIR {Q}<sup>1</sup> WHERE DOES HE LIVE A LIVES AT THE PARIA ≤NEAR THE≥</p> <p>EASTERN FRONTIER OF UTAH. {Q}<sup>1</sup>DO YOU KNOW IRA ALLEN {A}<sup>1</sup>YES SIR {Q}<sup>1</sup>WHERE DOES HE LIVE {A}<sup>1</sup>I BELIEVE HE LIVES IN CACHE VALLEY SOMEWHERE {Q}<sup>1</sup>DO YOU KNOW MC MURDY {A}<sup>1</sup>YES SIR {Q}<sup>1</sup>WHAT IS HIS FIRST NAME [space] WHERE DOES HE LIVE A IN CACHE VALLEY ALSO I THINK ≤AT≥</p>	<p>A. ABOUT 23 YEARS. Q. HOW MUCH OF THAT TIME HAVE YOU LIVED IN SOUTHERN UTAH? A. ABOUT 22, NEARLY. Q. DO YOU KNOW JOHN MANGRAM? A. YES, SIR. Q. WHERE DOES HE LIVE? A LIVES AT THE PAHREA NEAR THE</p> <p>EASTERN FRONTIER OF UTAH. Q. DO YOU KNOW IRA ALLEN? A YES, SIR. Q. WHERE DOES HE LIVE? A. IN CASH VALLEY, SOMEWHERE, I BELIEVE. Q. DO YOU KNOW MC MURDY? A. YES, SIR. Q. WHAT IS HIS FIRST NAME? WHERE DOES HE LIVE? A . IN CASH VALLEY ALSO; I THINK AT</p>	<p>ABOUT 23 YEARS HOW MUCH OF THAT TIME HAVE YOU LIVED IN SOUTHERN NG[?]</p> <p>22 NEARLY DO YOU KNOW JOHN MANGRAM YES SIR WHERE DOES HE LIVE LIVES AT THE PARIA NEAR THE</p> <p>EASTERN FRONTIER OF UTAH DO YOU KNOW IRA ALLEN YES SIR WHERE DOES HE LIVE I BELIEVE LIVES IN CACHE VALLEY SOMEWHERE. DO YOU KNOW MC MURDY YES SIR WHAT IS HIS FIRST NAME  IN CACHE VALLEY ALSO I THINK AT</p>
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399. Paria River.

**RT**

**RS**

**BT**

**PS**

<p>WELLSVILLE.</p> <p>Q. DO YOU KNOW EXTRA CURTIS ? A. YES SIR. Q. WHERE DOES HE LIVE ? A. SOMEWHERE IN UTAH COUNTY, I AM NOT CERTAIN AS TO THE SETTLEMENT. Q. DO YOU KNOW HARRISON PIERCE ? A. YES SIR. Q. WHERE DOES HE LIVE ? A. ST. GEORGE WASHINGTON CO. Q. DO YOU KNOW RICHARD HARRISON ? A. YES SIR. Q. WHERE DOES HE LIVE ? A. AT PINTO CREEK, RECOGNIZED IN WASHINGTON COUNTY ALSO. Q. DO YOU KNOW CARL SHIRTS ? A. YES SIR. Q. WHERE DOES HE LIVE ? A. SOMEWHERE ON THE <del>S</del>V SEVIER I BELIEVE. Q. DO</p>	<p>WELLSVILLE.</p> <p>{Q} DO YOU KNOW EZRA CURTIS {A} YES SIR</p> <p>{A} SOMEWHERE IN UTAH COUNTY ≤ I AM NOT CERTAIN AS TO &gt; [[30]] SETTLEMENT Q DO YOU KNOW HARRISON PEARCE YES SIR [space] WHERE DOES HE LIVE A ST. GEORGE WASHINGTON COUNTY [space] DO YOU KNOW RICHARD HARRISON YES SIR WHERE DOES HE LIVE AT PINTO CREEK, RECOGNIZED IN WASHINGTON COUNTY ALSO [space] DO YOU KNOW CARL SHIRTS YES SIR WHERE DOES HE LIVE SOMEWHERE ON SEVIER I BELIEVE DO</p>	<p>WELLS VILLE. <b>WELLSVILLE.</b></p> <p>Q. DO YOU HKNOW EZRA CURTIS? [329] A: YES, SIR. Q. WHERE DOES HE LIVE? A. SOMEWHERE IN UTAH, COUNTY, I AM NOT CERTAIN AS TO THE SETTLEMENT. Q. DO YOU KNOW HARRISON PEARCE? A. YES, SIR. Q. WHERE DOES HE LIVE? A. ST GEORGE, WASHINGTON COUNTY. Q. DO YOU KNOW RIGCHARD HARRISON? A. YES, SIR. Q. WHERE DOES HE LIVE? A AT PINTO CREEK, RECOGNISED AS IN WASQH-INGTON COUNTY ALSO. Q. DO YOU KNOW CARL SHIRTZS? A. YES, SIFR. Q. WHERE DOES HE LIVE? A. SOMEWHERE ON THE SEVIER, I BELIEVE. Q. DO</p>	<p>WELLSVILLE [space]</p> <p>EZRA CURTIS</p> <p>WHERE DOES HE LIVE SOMEWHERE IN UTAH COUNTY ≤WHAT TOWN I COULD NOT SAY≥</p> <p>DO YOU KNOW HARRISON PEARCE YES SIR</p> <p>WHERE DOES HE LIVE ST. GEORGE WASHINGTON COUNTY DO YOU KNOW RICHARD HARRISON YES SIR</p> <p>WHERE DOES HE LIVE AT PINTO CREEK RECOGNIZED AS IN WASHINGTON COUNTY ALSO DO YOU KNOW CARL SHIRTS YES SIR</p> <p>WHERE DOES HE LIVE SOMEWHERE ON THE SEVIER I BELIEVE DO</p>
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**RT**

**RS**

**BT**

**PS**

<p>YOU KNOW SAMUEL KNIGHTS ? A. YES SIR. <sup>[493]</sup> Q. WHERE DOES HE LIVE ? A. AT SANTA CLARA SETTLEMENT WASHINGTON COUNTY. CROSS - EXAMINED .</p>	<p>YOU KNOW SAMUEL KNIGHT YES SIR ≠WHERE DOES HE LIVE≧ AT SANTA CLARA SETTLEMENT WASHINGTON COUNTY {<b>BASKIN CROSS EXAMINED</b>}<sup>i</sup></p>	<p>YOU KNOW SAMUEL KNIGHT? A. YES, SIR. Q. WHERE DOES HE LIVE? A . AT THE SANTA CALARA SETTLEMENT, WASHINGTON-, COUNTY. CROSS – EXAMINATION O O JOHN M.MC FARLANE BY</p>	<p>YOU KNOW SAMUEL KNIGHT YES SIR  AT SANTA CLARA SETTLEMENT WASHINGTON, COUNTY [<i>space</i>] ≠CROSS– EXAMINATION≧</p>
<p>BASKIN: Q. HOW DO YOU KNOW IRA ALLEN LIVES IN CACHE CO. ? A. I SAID I BELIEVED HE DID,THE LAST ACCOUNT I HAD HEARD OF HIM. Q. WHEN DID YOU LAST HEAR FROM HIM ? A. I DIDN'T HEAR FROM HIM, I SAID I HAD HEARD OF HIM.</p>	<p>BASKIN QHOW DO YOU KNOW IRA ALLEN LIVES IN CACHE VALLEY A I SAID I BELIEVED HE DID LAST ACCOUNT I HAD HEARD OF HIM QWHEN DID YOU LAST HEAR FROM HIM A I DIDN'T HEAR FROM HIM I ≠SAID I HEARD≧ HAD HEARD OF HIM .</p>	<p>BASKIN: Q. HOW DO YOU KNOW IRA ALLEN LIVES IN CASH VALLEY? A. ISAID I BELIEVE HE DID, THE LAST ACCOUNT I HEARD OF HIM. Q. WHEN DIDYOU LAST HEAR FROM HIM? A. I DIDN'T HEAR FROM HIM, I SAID I  HEARD OF HIM.</p>	<p>HOW DO YOU KNOW THAT IRA ALLEN LIVES IN CACHE VALLEY I SAID I BELIEVE HE DID THE LAST ACCOUNTS HAD HEARD OF HIM [<i>space</i>]  I HAVE NOT HEARD FROM HIM I HAVE HEARD <i>OF</i> <i>HIM</i>[?] [<i>space</i>] YOU <del>KNOW</del> DON'T KNOW THAT HE LIVES IN CACHE VALLEY I SAID I BELIEVE HE</p>

**RT**

**RS**

**BT**

**PS**

<p>Q. DO YOU KNOW WHETHER HE IS LIVING AT ALL OR NOT — DO YOU KNOW</p> <p>A. I DON'T, I HAVEN'T SEEN HIM FOR SEVERAL YEARS.</p> <p>Q. IF YOU KNOW SIR, DO YOU KNOW WHERE EZRA CURSTIS LIVES ?</p> <p>A. NO SIR, BUT SOMEWHERE IN UTAH COUNTY.</p> <p>Q. DON'T YOU KNOW OF YOUR OWN KNOWLEDGE ?</p> <p>A. NO SIR. Q. DO YOU KNOW WHERE MC MURDY LIVES ?</p> <p>A. ONLY ON THE SAME GROUNDS AS THE LAST. Q. ARE YOU</p>	<p>Q DO YOU KNOW WHETHER HE IS ALIVE AT ALL OR NOT = DO YOU KNOW</p> <p>A I DON'T, I HAVEN'T SEEN HIM FOR SEVERAL YEARS</p> <p>Q HAVEN'T YOU A KNOW SIR DO YOU KNOW WHERE EZRA CURTIS &lt;LIVES&gt; NO SIR SOMEWHERE IN UTAH COUNTY I HAVE HEARD</p> <p>Q YOU DON'T KNOW OF YOUR OWN KNOWLEDGE A NO SIR Q DO YOU KNOW WHERE MC MURDY &lt;LIVES&gt;</p> <p>A ONLY ON THE SAME GROUNDS AS ALLEN [space] ARE YOU PERSONALLY</p>	<p>Q. DO YOU KNOW WHETHER HE IS LIVING AT ALL, OR NOT?</p> <p>A. I DON'T I HAVN'T SEEN HIM FOR SEVERAL YEARS</p> <p>. Q. HAVN'T YOU? A. NO, SIR. Q. DO YOU KNOW WHERE EZRA CURTISS LIVES? A. NO, SIR, SOMEWHERE IN UTAH, COUNTY, I HAVE HEARD.</p> <p>Q. BUT YOU DON'T KNOW OF YOUR OWN KNOWLEDGE? A. NO, SI-R. Q. DO YOU KNOW WHERE MC MURDY LIVES? A. ONLY ON THE SAME GROUND AS THE REST. Q. ARE YOU</p>	<p>LIVES IN CACHE</p> <p>[[6]]<sup>400</sup> DO YOU KNOW WHETHER HE IS ALIVE OR NOT</p> <p>&lt;I BELIEVE HE IS&gt; NO SIR I HAVEN'T SEEN HIM [space] HAVEN'T SEEN HIM FOR SEVERAL YEARS</p> <p>NO SIR [space] DO YOU KNOW WHERE EZRA CURTIS LIVES &lt;NO SIR&gt; SOMEWHERE IN UTAH COUNTY I HAVE HEARD NOTHING BY OF YOUR OWN KNOWLEDGE NO SIR DO YOU KNOW WHERE MC MURDY LIVES ONLY ON THE SAME GROUND AS LAST ARE YOU</p>
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400. The verso of page 6 includes profiles of men, doodling, and the following in shorthand at odd angles around the page: HELL AND DAMNATION; JOSIAH ROGERSON OLD MOTHER HUBBARD SHE WENT TO THE CUPBOARD TO GIVE HER POOR DOG A BONE; ON THE OTHER HAND [*written several times*]; WHERE HE SAID IN HIS EXAMINATION IN CHIEF THAT THE ORDER TO HALT WAS TO INCLUDE THE ORDER TO FIRE WHETHER HE HEARD IT GIVEN OR WHETHER FROM RUMOR AND ALSO WHAT HE SAID ON CROSS EXAMINATION; REASONABLE DOUBT; YOU WILL THIS DAY HAVE REASONABLE DOUBT; HYPOTHESIS [*written twice*].



**RT****RS****BT****PS**

ACQUAINTED WITH MC MURDY ? A. YES SIR.	ACQUAINTED WITH MC MURDY YES SIR	ACQUAINTED WITH MC MURDY ? A. YES, SIR.	ACQUAINTED WITH MC MURDY YES SIR PERSONALLY
Q. HOW LONG HAS IT BEEN SINCE YOU SAW HIM ? A. SEVERAL	Q. HOW LONG HAS IT BEEN SINCE YOU SAW HIM ? ≤A	Q. HOW LONG HAS IT BEEN SINCE YOU SAW HIM? A. A	YES SIR HOW LONG SINCE YOU SAW HIM
YEARS ,CAN'T SAY EXACTLY, I DON'T KNOW WHERE HE LIVES ONLY BY NEIGHBORS. Q.	NUMBER[?] OF YEARS CAN'T SAY EXACTLY. DON'T KNOW WHERE HE LIVES ? ONLY BY NEIGHBORS	NUMBER OF YEARS. <sup>[330]</sup> I CAN'T SAY WHERE HE LIVES; DON'T KNOW WHERE HE LIVES ONLY BY NEIGHBORS.	NUMBER OF YEARS  DON'T KNOW WHERE HE LIVES I HAVE ONLY HEARD FROM HIM BY NEIGHBORS OF
HOW LONG HAS IT BEEN SINCE YOU HEARD OF HIM BY NEIGHBORS ? A. THREE MONTHS — ABOUT FIVE MONTHS. Q. WHEN DID YOU LAST SEE CARL SHIRTS ? A. HAVEN'T SEEN HIM FOR SEVERAL YEARS, HAVE ONLY HEARD WHERE HE LIVES, ON THE SEVIER	HOW LONG HAS IT BEEN SINCE YOU HEARD OF HIM BY NEIGHBORS 3 MONTHS [space] ABOUT 5 MONTHS Q WHEN DID YOU LAST SEE CARL SHIRTS HAVE NOT SEEN HIM FOR SEVERAL YEARS . HAVE ≤ONLY≥ HEARD WHERE HE LIVES ON SEVIER .	Q. HOW LONG HAS IT BEEN SINCE YOU HEARD OF HIM BY NEIGHBORS? THEREE MONTH? A ABOUT FIVE MONTHS. Q. Q. WHEN DID YOU LAST SEE CARL SHIRTZS ? THE A. NOT FOR TWO OR THREE OR THREE YEARS.; HAVE ONLY HEARD THAT HE LIVES ON THE SEVIER . Q. DO YOU KNOW WHERE HE LIVES NOW? A .	HIS [space] HOW LONG SINCE YOU HEARD OF HIM BY NEIGHBORS  35 MONTHS [space] WHEN HAVE YOU LAST SEEN CARL SHIRTS A NOT FOR 2 OR 3 YEARS  DO YOU KNOW WHERE HE LIVES NOW?

**RT**

**RS**

**BT**

**PS**

<p>[494] Q. IN THE CASE OF MR. PIERCE, HARRISON PIERCE, DON'T YOU KNOW HE IS OVER IN ARIZONA ? A. NO SIR. Q. OVER SOME MOUNTAIN WHERE THEY ARE SAWING TIMBER THERE ? A.. NO SIR.</p>	<p>IN THE CASE OF MR. PEARCE HARRISON PEARCE ◀DON'T▶ YOU KNOW HE IS OVER IN ARIZONA NO SIR OVER SOME ◀MOUNTAIN▶ THERE WHERE THEY ARE SAWING TIMBER NO SIR</p>	<p>I OBNLY BELIEVE WHERE HE LIVES. Q. NOW IN THE CASE OF MR .  HARRISON PEARCE?X. DON'T YOU KNOW HE IS OVER IN ARIZONA, OVER SOME MOUNTAIN THERE WHERE THEY ARE SAWING TIMBER? A. HE HAS BEEN THERE OCCASIONALLY.</p>	<p>I ONLY[?] BELIEVE WHERE HE LIVES [space] NOW IN THE CASE OF MR.  ◀HARRISON▶ PEARCE DON'T YOU KNOW THAT HE IS OVER IN ARIZONA OVER SOME MOUNTAIN  HE HAS BEEN THERE OCCASIONALLY AND HE HAS BEEN HOME [space] DON'T YOU KNOW HE SPENDS MOST HIS TIME AT MT. TREMBLE ARIZONA NO SIR</p>
<p>Q. DON'T YOU KNOW HE SPENDS HIS TIME IN ARIZONA ? A. NO SIR,MY ACQUAINTANCE WITH HIM HAS BEEN THE GREATER PART OF THE TIME IN ST. GEORGE. Q. WHERE HAS HE BEEN THE LAST FEW MONTHS ? A. HE HAS BEEN WORKING AT</p>	<p>DON'T YOU KNOW HE SPENDS HIS TIME IN ARIZONA NO SIR MY ACQUAINTANCE WITH HIM HAS BEEN GREATER ◀PART▶ OF IT IN ST. GEORGE. WHERE HAS ◀HE▶ BEEN LAST FEW MONTHS A HE HAS BEEN WORKING AT</p>	<p>Q. DON'T YOU KNOW HE SPENDS HIS TIME IN ARIZONA? A. NO, SIR. MY ACQUAINTANCE WITH HIM HAS BEEN THE RGREATER PART OF IT IN ST GEORRGE Q. WHERE HAS BHE BEEN FOR THE LAWST FEW MONTHS. A. HE HAS BEEN WORKING AT</p>	<p>[space] DON'T YOU KNOW HE SPENDS MOST HIS TIME AT MT. TREMBLE ARIZONA NO SIR  GREATER PART IN ST GEORGE [space]  HE HAS BEEN WORKING AT</p>

**RT**

**RS**

**BT**

**PS**

<p>THE LUMBER MILLS FOR THE</p> <p>LAST FIVE MONTHS. Q. HAVE YOU BEEN OVER THERE ? A. NO SIR. THE LAST THREE MONTHS I GUESS HE HAS, IN THE LAST THREE MONTHS.</p>	<p>LUMBER MILLS FOR</p> <p>LAST 5 MONTHS HAS BEEN OVER THERE NO SIR THE LAST 23 MONTHS I GUESS HE HAS THE LAST THREE 23 MONTHS</p>	<p>THE LUMBER MILLS FOR THE</p> <p>LAST FIVE MONTHS. Q. HE HAS <del>DONE</del> BEEN OVER THERE? A. NO, SIR, THE LAST THREE MONTHS, I GUESS, HE HAS BEEN OVER IN ARIZONA THE LAST THREE MONTHS. Q. IN ARIZONA? A. YES SIR.</p>	<p>THE LUMBER MILLS THERE PART OF THE TIME[?] [space] LAST FIVE MONTHS HE HAS BEEN OVER THERE NO SIR LAST 3 MONTHS YES SIR</p> <p>IN ARIZONA YES SIR [space] SUTHERLAND STATE WHETHER HE HAS BEEN ANY PART OF THE LAST 3 MONTHS AT HOME YES SIR [space]</p>
<p>Q. STATE WHETHER HE HAS BEEN ANY PART OF THE LAST THREE MONTHS AT HOME ? A. YES SIR.</p>	<p>STATE WHETHER HE HAS BEEN ANY PART OF {THE}<sup>i</sup> LAST 3 MONTHS AT HOME A YES SIR. BY COURT CALL YOUR NEXT WITNESS. PROSECUTION ARE IN EARNEST TO PROVIDE[?] CONSULTATION ABOUT SOME ANSWERS OF MACFARLANE TO QUESTIONS RELATIVE WHEREABOUTS PARTIES INQUIRED ABOUT OF BY BASKIN. [space] BISHOP COURT</p>	<p>Q.STATE WHETHER HE HAS BEEN ANY PART OF THE LAST THREE MONTHS AT HOME? A YES, SIR.</p>	<p>STATE WHETHER HE HAS BEEN ANY PART OF THE LAST 3 MONTHS AT HOME YES SIR [space]</p>

**RT**

**RS**

**BT**

**PS**

DEFENDANT RESTS. CASE CLOSED .	PLEASE THE DEFENSE WILL NOW REST { <b>DEFENSE</b> <b>REST</b> } <sup>i</sup>	DEFENSE RESTS.	DEFENSE RESTS [ <i>space</i> ] TESTIMONY CLOSES [ <i>space</i> ]
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