

John D. Lee, First Trial

Enos D. Hoge Closing Argument

**RT**

**RS**

**BT**

**PS**

<p><i>[[Bk 5 1]]</i><sup>470</sup> IN THE DISTRICT COURT FOR THE SECOND JUDICIAL DISTRICT OF THE TERRITORY OF UTAH. COUNTY OF BEAVER. THE PEOPLE. VS JOHN D. LEE.</p> <p>AUGUST 4TH</p>	<p><i>[[Bk 11 9]]</i> <b>10 30. AM.</b> BEGAN <b>AUG 4,</b></p>	<p><i>[[Bk 7 1]]</i> (<del>Book 6</del>) (Book 7) (ADAM PATTERSON DID NOT REPORT THIS SPEECH—SO I HAD TO GET IT ENTIRELY FROM ROGERSON’S NOTES.) E. D. HOGES’S ADDRESS TO THE JURY ON THE PART OF DEFENSE. (FIRST TRIAL.)</p> <p>AUGUST 4TH,</p>	<p><i>[[Bk 8 10]]</i> <b>JUDGE E. D. HOGE</b> ADDRESS JURY <i>[space]</i> BISHOP <i>[[11]]</i> (E.D. HOGE.S REMARKS OMITTED) ADAM PATTERSON DID NOT RECORD</p> <p>E.D. HOGE’S CLOSING.<sup>471</sup></p>
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470. Rogerson Transcript Book 5 includes Sutherland, Hoge, and Bishop’s closing arguments. Sutherland’s closing is numbered pp. 1–30. The numbering restarts with Hoge. 471. In Rogerson’s longhand.

**RT**

**RS**

**BT**

**PS**

<p>1875. 310:30 A.M.          JUDGE HOGE IN          BEHALF OF          DEFENDANT          BEGAN AND          DELIVERED THE          FOLLOWING          ARGUMENT TO          THE JURY.          GENTLEMEN OF          THE JURY:- IT          NOW BECOMES          MY DUTY          TO LAY          THE FACTS,            AS ADDUCED BY          THE EVIDENCE          IN THIS CASE,          BEFORE YOU,          AND TO MAKE A          FEW REMARKS,          IN ORDER TO          ASSIST YOU          IN ARRIVING          AT A          CORRECT          CONCLUSION AS          TO THE GUILT OR          INNOCENCE OF          JOHN D. LEE, THE          PRISONER AT          THE BAR.            I SHALL          ATTEMPT TO            CONFINE MY          REMARKS TO</p>	<p><b>1875.</b>  <b>{HOGES</b>  <b>SPEECH.}</b><sup>i</sup>  <b>HOGE</b><sup>472</sup></p> <p>IT          BECOMES          MY DUTY NOW          TO LAY BEFORE          YOU THE FACTS          ≤IN THIS CASE</p> <p>AS ADDUCED≥</p> <p>MAKE          FEW REMARKS          TO          ASSIST YOU          ≤IN≥ ARRIVING          &lt;AT A&gt;          CORRECT          CONCLUSION IN          REGARD ≤TO          THE&gt; EVIDENCE          YOU          HAVE ≤SO LONG          AND&gt;          LISTENED.          I SHALL          ATTEMPT          WHILE          ADDRESSING          YOU TO TO          FOLLOW {THE}<sup>i</sup></p>	<p>1875. 10:3: A.M. –</p> <p>IT          BECOMES          MY DUTY NOW,          TO LAY BEFORE          YOU THE FACTS          IN THIS CASE          WHICH HAVE          BEEN ADDUCED</p> <p>AND TO MAKE A          FEW REMARKS,          TO          ASSIST YOU          IN ARRIVING          AT A          CORRECT          CONCLUSION IN          REGARD TO THE          EVIDENCE, TO          WHICH YOU          HAVE SO LONG          AND PATIENTLY          LISTENED.          I SHALL          ATTEMPT          ,WHILE          ADDRESSING          YOU, TO          FOLLOW</p>	
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472. “**TRANSCRIBED**” is written in Rogerson’s longhand diagonally across the page with lines above and below it.

**RT**

**RS**

**BT**

**PS**

<p>THE EVIDENCE AS I UNDERSTAND IT,AND TO THE LEGAL EFFECT OR BEARING OF THAT EVIDENCE, WHEN APPLIED TO THE CRIME CHARGED AGAINST THE DEFENDANT IN THE INDICTMENT.</p> <p>I DO NOT DEEM IT NECESSARY TO COMMENT UPON ALL THE TESTIMONY, WHICH HAS BEEN DETAILED TO YOU BY THE WITNESSES FOR THE PROSECUTION; BUT WILL CONFINE MYSELF TO THAT PORTION ONLY WHICH SEEMS TO HAVE ANY</p>	<p>EVIDENCE AS I UNDERSTOOD</p> <p>LEGAL BEARING SUBSTANCE OF THE EVIDENCE.</p> <p>I SHALL NOT ATTEMPT TO GO INTO ALL THE MINUTIAS {THAT THE}<sup>i</sup> WITNESSES HAVE GONE INTO &lt;WHICH IS NOT NECESSARY NOW&gt;.</p>	<p>THE EVIDENCE AS I UNDERSTANED IT AND <b>GIVE</b> THE SUBSTANCE AND LEGAL BEARING OF IT.</p> <p>I SHALL NOT ATE MPT TO GO INTO ALL THE MINUTIAS THAT THE WITNESSES HAVE GONE INTO, WHICH IS NOT NECESSARY NOW;</p>	
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**RT**

**RS**

**BT**

**PS**

<p>RELEVANCY TO THE ISSUE BEFORE YOU AND TO DRAW A PROPER CONCLUSION THEREFROM, AND ASSIST YOU IN FORMING A JUST OPINION, THAT WILL COMMEND ITSELF TO ALL REASONABLE MEN, WHO HAVE BECOME ACQUAINTED WITH THE TESTIMONY IN THIS CASE. IT IS MY DUTY AS AN ATTORNEY TO ASSIST YOU IN THIS, AND I DO NOT WISH TO ATTEMPT TO MISLEAD YOU;</p> <p>NOR DO I CONSIDER THAT IT IS THE PROVINCE OF AN ATTORNEY TO TRY</p>	<p>AND SEE IF WE CAN DRAW A PROPER CONCLUSION FROM THIS ALL EVIDENCE TO ARRIVE AT AN OPINION THAT WILL BE SATISFYING TO US ALL.</p> <p>IF I CAN ASSIST YOU IN ARRIVING AT THIS CONCLUSION IT IS MY DUTY TO DO SO, ~ AS AN ATTORNEY I SHALL NOT ~ ATTEMPT, NOR</p> <p>IS IT THE PROVINCE OF AN ATTORNEY FOR THE DEFENSE TO TRY</p> <p>TO MISLEAD</p>	<p>BUT TO SEE IF WE CAN <del>G</del>DRAW A PROPER <del>AND</del> CORRECT CONCLUSION FROM ALL THIS EVIDENCE AND ARRIVE AT AN OPINION THAT WILL BE SATISFACTORY TO US ALL.</p> <p>IFI CAN ASSIST YOU IN ARRIVING AT THIS CONCL<del>USI</del>ON IT IS MY DUTY TO DO SO; AND AS AN ATTORNEY, I SHALL NOT ATTEMPT<del>NOT</del> <b>NOR</b></p> <p>IS IT THE PROVINCE OF AN ATTORNEY FOR THE DEFENSE OR THE PROSECUTION TO MISLEAD</p>	
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**RT**

**RS**

**BT**

**PS**

<p>TO DRAW YOUR MINDS AWAY FROM THE EVIDENCE, IN ORDER TO PREVENT YOU FROM ARRIVING AT A CONCLUSION NOT BASED UPON THE FACTS IN THIS <sup>[2]</sup> CASE.</p> <p>THE PROSECUTING ATTORNEY ∴</p> <p>I WISH HE WERE IN THE ROOM ∴ IN HIS REMARKS YESTERDAY,</p> <p>TOLD YOU, IN SWEEPING TERMS “THAT THE EVIDENCE WAS CONCLUSIVE.</p>	<p>THEY MUST DRAW IT AWAY FROM {THE}<sup>1</sup> PROPER CONCLUSION TO BE ARRIVED AT OR PREVENT YOU FROM THE ARRIVING AT</p> <p>THE FACTS IN THE CASE. THE REMARKS THAT WERE MADE BY PROSECUTING ATTORNEY YESTERDAY (I WISH HE WAS IN)</p> <p>I WANTED TO CALL EYE THAT GENTLEMAN ATTENTION TO IT FOR ONE SINGLE MOMENT AS THE GENTLEMAN TOLD YOU IN SWEEPING TERMS THAT THE EVIDENCE WAS CONCLUSIVE</p>	<p>YOU. THEY MUST NOT ATTEMPT TO DRAW YOUR MINDS AWAY FROM A PROPER CONCLUSION TO BE ARRIVED AT OR PREVENT YOU FROM ARRIVING AT</p> <p>THE FACTS IN THIS CASE. THE REMARKS THAT WE REMARKS THAT WERE MADE BY THE PROSECUTING ATTORNEY YESTERDAY, AND I WISH HE WAS IN HERE,,</p> <p>FOR I WANTED TO CALL THAT GENTLEMAN’S ATTENTION TO IT FOR ONE SINGLE MOMENT. HE TOLD YOU IN SWEEPING TERMS THAT THE EVIDENCE WAS CONCLUSIVE.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>AND THIS  ASSERTION WAS  THE SUM AND  SUBSTANCE OF  MR. CAREY'S  REMARKS, WITH  THE EXCEPTION  OF HIS  DECLAMRATION  OVER THE  RIGHTEOUS  INDIGNATION  WHICH HE  PRETENDED HE  FELT. HE DID  NOT DEIGN TO  LAY BEFORE  YOU A  STATEMENT OF  THE  TESTIMONY, AND  BY A FAIR  DEDUCTION  JUSTIFY HIMSELF  IN MAKING SUCH  AN ASSERTION.  NO! BUT HE  TOLD YOU, THAT  IF HE HIMSELF  EVER WERE  GUILTY OF  SUCH AN  OFFENSE AS  JOHN D. LEE IS    CHARGED WITH,  HE WOULD AT  ONCE GO  BEFORE THE  AUTHORITIES OR  OFFICERS OF THE  LAW AND  CONFESS HIS  GUILT AND ASK</p>	<p>YOU HAVE GOT    MR. CAREY'S  STATEMENT OF  IT IN  CONNECTION  WITH THAT AND  THE  RIGHTEOUS  INDIGNATION    HE  FELT    HE  TOLD YOU  IF HE  WAS  GUILTY OF  SUCH {AN}<sup>i</sup>  OFFENSE AS  JOHN D. LEE IS  TODAY  CHARGED WITH  HE WOULD  GO  BEFORE  AUTHORITIES    AND ASK</p>	<p>YOU HAVE GOT    MR. SCAREY'S  STATEMENTS  <del>AFTER</del>, IN  CONNECTION  WITH THAT AND  WHAT TOOK  PLACE OF THE  FIELD.    HE  TOLD YOU THAT  IF HE  WAS  GUILTY OF  SUCH AN  OFFENSE THAT  JOHN D. LEE IS  TO DAY  CHARGED WITH,  HE WOULD  GO  BEFORE THE  AUTHORITIES    AND ASK</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THEM TO PUNISH HIM FOR IT. GENTLEMEN, DID YOU LOOK AT MR. CAREY'S HEAD ? DID YOU BELIEVE WHAT HE SAID ? DO YOU BELIEVE FOR A MOMENT</p> <p>THAT HE WOULD HAVE WALKED UP AND PUT HIS NECK IN THE HALTER WITHOUT A TRIAL, JUDGE OR JURY ? IF YOU DO, TAKE ANOTHER LOOK AT HIS PHISYOGNOMY AND WITH YOUR KNOWLEDGE OF HUMAN NATURE YOU WILL READILY CONCLUDE THAT HE WOULD</p>	<p>THEM TO PUNISH HIM.  GENTLEMEN, DID YOU LOOK AT HIS NOODLE,  DO YOU BELIEVE THAT THAT MAN NOTWITHSTANDING HE TOLD YOU THAT HERE FOR THE PURPOSE OF CREATING AN EFFECT <math>\Leftarrow ? \Rightarrow</math> ~ UPON YOUR MINDS AND HE THAT ~ WOULD HAVE WALKED UP AND STUCK HIS NECK IN THE HALTER</p> <p>IF YOU HAD LOOKED AT HIS FIG</p> <p>YOU ~ WOULD HAVE READILY ~ CONCLUDED HE WOULD</p>	<p>THEM TO PUNISH HIM.  GENTLEMEN, DID YOU LOOK AT HIS NODDLE? DØID YOU LOOK AT THAT MAN? AND DO YOU BELIEVE THAT THAT MEAN, NOTWITHSTANDING HE TOLD YOU THAT HERE, FOR THE PURPOSE OF MAKINGAN EFFECT UPON YOUR MINDS, THAT HE WOULD HAVE WALKED UP AND STUCK HIS NECK IN THE HALTER?</p> <p>[2] IF YOU HAD LOOKED AT HIS PHIZOGG,</p> <p>YOU WOULD READILY HAVE CONCLUDED HE WOULD</p>	
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**RT**

**RS**

**BT**

**PS**

<p>HAVE GONE IN AN OPPOSITE DIRECTION— YOU WILL IMMEDIATELY COME TO THE CONCLUSION THAT HE WOULD NOT HAVE FACED THE OFFICERS OF THE LAW WITHOUT A MOST FORCIBLE COMPULSION. NO, GENTLEMEN, THIS ARGUMENT, OR RATHER DECLAMATION, IS NOT MADE IN GOOD FAITH ON HIS PART, BUT, HAVING NO TESTIMONY TO CONVICT THE DEFENDANT, HE USES THIS PALTRY SUBTERFUGE FOR EFFECT ONLY, AND FOR THE PURPOSE OF PREJUDICING YOUR MINDS AGAINST THE PRISONER. IN COMMENTING UPON THE TESTIMONY I SHALL FIRST NOTICE THAT OF</p>	<p>HAVE WALKED<sup>473</sup> IN ANOTHER DIRECTION.</p> <p>LET'S GO TO {THE}<sup>i</sup> TESTIMONY. FIRST WITNESS</p>	<p>HAVE WALKED IN ANOTHER DIRECTION.</p> <p>LET US COME TO THE TESTIMONY. THE FIRST WITNESS THAT</p>	
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473. Vowels, added later in ink, render the word “ARGUED”. Rogerson wrote “WALKED” in longhand above the shorthand symbol.

**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITH. HE COMES BEFORE YOU AND TELLS A LONG DISCONNECTED STORY, THE SUBSTANCE OF WHICH I WILL TAKE UP, COMMENT UPON, AND COMPARE WITH THAT OF THE OTHER WITNESSES FOR THE PROSECUTION.</p> <p>ON THE SUNDAY BEFORE THE EMIGRANTS</p>	<p>UPON STAND IS KLINGENSMITH IT WILL BECOME NECESSARY GENTLEMEN FOR ME {TO}<sup>i</sup> GO OVER THIS TESTIMONY</p> <p>{AND}<sup>i</sup> COMMENT UPON SAME TESTIMONY JUDGE SUTHERLAND HAS IN YOUR HEARING CLEARLY IT WILL HENCE TO SOME EXTENT A REPETITION OF THAT. LET US SEE {WHAT THE}<sup>i</sup> SUBSTANCE OF THIS TESTIMONY WAS. I AM FIRST GOING TO DEAL WITH THIS MAN SMITH. [space] SMITH COMES BEFORE YOU AND TESTIFIES TELLS YOU THE</p> <p>SUBSTANCE OF IT IS THIS. ON FRIDAY EMIGRANTS</p>	<p>COMES UPON THE STAND, IS KLINGENSMITH. AND IT WILL BECOME NECESSARY, GENTLEMEN, FOR ME TO GO OVER THIS TESTIMONY <del>WHICH</del> AND COMMENT UPON THE SAME TESTIMONY WHICH JUDGE SUTHERLAND HAS IN YOUR HEARINNG SO CLEARLY SHOWN YOU, AND TO SOME EXTENT IT WILL BE A REPETITION OF THAT. LET US SEE WHAT THE SUBSTANCE OF THIS TESTIMONY WAS. I AM FIRST GOING TO DEAL WITH THIS MAN SMITH. SMITH COMES BEFORE YOU AND TESTIFIES; AND TELLS US —THE SUM AND SUBSTANCE IS THIS: ON FRIDAY THE EMIGRANTS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>PASSED THROUGH CEDAR CITY <sup>[3]</sup> — WHICH WAS THE FRIDAY FOLLOWING — A MEETING WAS HELD, IN WHICH THE DESTRUCTION OF THE EMIGRANTS WAS DISCUSSED. HE SAID THAT HAIGHT ADVOCATED THEIR DESTRUCTION, AND THAT HE ∴ SMITH ∴ OPPOSED IT. BUT HE COULD NOT TELL YOU A SINGLE WORD OF WHAT WAS SAID IN REFERENCE TO THE DESTRUCTION OF THE EMIGRANTS. GENTLEMEN, COULD HE TELL YOU ONE SINGLE WORD OF WHAT HAIGHT SAID ? NO! COULD HE TELL YOU A SYLLABLE OF WHAT ANY ONE ELSE SAID AT THAT MEETING ? NO!</p>	<p>PASSED THROUGH CEDAR; ON SUNDAY MEETING WAS HELD WHEN THE &lt;SUBJECT&gt; OF THE DESTRUCTION OF THE EMIGRANTS CAME UP. IN THEIR MEETING, BUT DID HE TELL YOU SINGLE WORD THAT WAS SAID IN REGARD TO THIS DESTRUCTION, COULD HE TELL YOU WHAT HAIGHT SAID IN &lt;THE&gt; PUBLIC MEETING AT</p>	<p>PASSED THROUGH CEDAR; ON SUNDAY A MEETING WAS HELD, WHEN THE SUBJECT OF THE DESTRUCTION OF THE EMIGRANTS CAME UP IN THAT MEETING, BUT HE COULD NOT TELL YOU A SINGLE WORD THA T WAS SAID IN REGARD TO THEIR DESTRUCTION; COULD NOT TELL WYOU WHAT WAS SAID IN PUBLIC MEETING, IN</p>	
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**RT**

**RS**

**BT**

**PS**

<p>HE COULD ONLY REMEMBER THAT THE DESTRUCTION OF THE EMIGRANTS WAS DISCUSSED AND DETERMINED UPON. NOW, GENTLEMEN, I WISH YOU WOULD BEAR IN MIND, THAT THIS HAPPENED UPON THE SABBATH DAY, A DAY SET APART BY THE CHRISTIANS IN ALL THE WORLD TO BE REMEMBERED AND KEPT HOLY, AND UPON WHICH THEY ASSEMBLED IN THEIR TEMPLES AND CHURCHES FOR MEDITATION AND PRAYER, TO WORSHIP ALMIGHTY GOD, THE GIVER OF ALL GOOD, TO SEND UP THANKSGIVINGS TO AN ALL BOUNTIFUL FATHER IN HEAVEN, AND TO PRAY TO HIM TO FORGIVE THEIR TRESPASSES, AS THEY FORGIVE</p>	<p>CITY OF CEDAR</p> <p>ON THE SABBATH DAY WHEN THE MAJORITY OF <math>\leq</math>THE<math>\geq</math> PEOPLE IN THE CIVILIZED COUNTRIES</p> <p>CONGREGATE IN TEMPLES</p> <p>OF WORSHIP FOR THE PURPOSE OF OFFERING UP THEIR THANKSGIVING TO THE CREATOR OF ALL GOOD</p> <p>[space]</p>	<p>THE CITY OF CEDAR</p> <p>ON THE SABBATH DAY, WHEN THE MAJORITY OF THE PEOPLE IN CIVILIZED COUNTRIES</p> <p>CONGREGATE IN THE PLACES AND TEMPLES</p> <p>OF WORSHIP FOR THE PURPOSE OF OFFERING UP THEIR THANKSGIVING S TO THE CREATOR OF ALL GOOD;</p>	
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**RT**

**RS**

**BT**

**PS**

THOSE WHO TRESPASS AGAINST THEM. A DAY UPON WHICH THEY ASSEMBLED TO HOLD COMMUNION WITH THEIR REDEEMER. NOW, PICTURE TO YOUR MIND, GENTLEMEN OF THE JURY, THIS CONGREGATION AT CEDAR CITY ON THE DAY IN QUESTION; THE COMMUNICANTS HAVING ASSEMBLED IN ACCORDANCE WITH THEIR CHRISTIAN CUSTOM WITH BISHOP KLINGENSMITH PRESIDING: HAIGHT MAKES THE STARTLING ANNOUNCEMENT THAT 150 EMIGRANTS, MEN, WOMEN AND CHILDREN, WHO ARE ADVANCING TOWARDS THEIR LITTLE SETTLEMENT, MUST BE SLAIN, AND THAT THE MEMBERS			
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**RT**

**RS**

**BT**

**PS**

PRESENT MUST ASSIST IN SLAYING THÆM ! IT IS IMPOSSIBLE THAT ANY ~~PERSN~~ PERSON WHO WAS THEN AND THERE PRESENT, COULD EVER FORGET THE LANGUAGE IN WHICH SUCH AN ANNOUNCEMENT WAS MADE.

*[[10]]* BUT ALL HE COULD TELL WAS A SIMPLE <WORD> AND THE ONLY EXPRESSION WAS THAT THE CONVERSATION CAME UP IN REGARD TO THE DESTRUCTION OF THESE UNFORTUNATE EMIGRANTS IT CAME UP AND IN ALL THAT CONVERSATION, NOT ANOTHER WORD NOR ANOTHER SYLLABLE, COULD THE PERJURED FELON DETAIL BEFORE YOU.

BUÛT ALL HE COULD TELL WAS THE SMIPLE WORD AND THE ONLY EXPRESSION WAS THAT THE CONVERSATION CAME UP IN REGARD TO THE DESTRUCTION OF THESE UNFORTUNATE EMIGRANTS. IT CAME UP THERE, AND IN ALL THAT CONVERSATION NOT ANOTHER WORD NOTR ANOTHER SYLLABLE COULD THE PERJURED VILLAIN DETAIL BEFORE YOU.

IS THERE A MAN ON THIS JURY

DON'T YOU

DON'T YOU

**RT**

**RS**

**BT**

**PS**

<p>WHO BELIEVES THAT IF HE HAD BEEN PRESENT ON SUCH AN OCCASION HE WOULD HAVE FORGOTTEN EVERY WORD SPOKEN, EVEN AFTER A LAPSE OF <sup>[4]</sup> EIGHTEEN YEARS ?</p> <p>NO, GENTLEMEN, THE LANGUAGE</p>	<p>THINK THAT IF ONE OF YOU HAD BEEN PRESENT,</p> <p>EVEN</p> <p>18 YEARS AGO ON THE 16 OF NEXT SEPTEMBER SUPPOSE IT TO BE, THAT YOU COULD HAVE TOLD WHEN CONVERSATION OF THIS KIND OF PUBLIC MEETING WAS HELD, MEN</p> <p>PREACHED FROM PULPIT DESTRUCTION 150</p> <p>INNOCENT SOULS, YOU COULD HAVE RECOLLECTED SOMETHING ELSE THAN A MERE CONVERSATION IN REGARD TO THIS.</p>	<p>THINK THAT IF ONE OF YOU HAD BEEN PRESENT,</p> <p>EVERN</p> <p>18 YEARS AGO ON THE 16TH OF NEXT SEPTEMBER, I SUPPOSE IT WOULD BE,— THAT YOU COULD HAVE TOLD WHEN A CONVERSATION OF THIS KIND, IN A PUBLIC MEETING WAS HELD, AND MEN WERE PREACHING ABOUT THE DESTRUCTION OF A HUNDRED AND FIFTY INNOCENT SOULS, YOU COULD HAVE RECOLLECTED SOMETHING ELSE THAN THE MERE CONVERSATION IN REGARD TO THIS.</p>	
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**RT**

**RS**

**BT**

**PS**

WOULD HAVE RUNG IN YOUR EARS TO THIS DAY, YEA, EVEN UNTO THE DAY OF YOUR DEATH. BUT, SUPPOSE A PERSON WHO TOOK NO PART IN THE DISCUSSION SHOULD HAVE FORGOTTEN THE WORDS SPOKEN, WOULD IT BE POSSIBLE THAT A MAN WHO TOOK A PROMINENT PART IN IT SHOULD EVER FORGET IT ? KLINGENSMITH SAYS HE OPPOSED HAIGHT. IF HE OPPOSED HIM HE MUST HAVE HAD SOME REASONS FOR HIS OPPOSITION, AND IN THE CONTEST BETWEEN THEM A PART OF THE ARGUMENT, THE SUBSTANCE, IF NOT THE FORM, MUST NEEDS HAVE MADE AN IMPRESSION ON HIM, HE MUST HAVE BEEN CONVINCED—			
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**RT**

**RS**

**BT**

**PS**

<p>FOR HE ACKNOWLEDGES HIMSELF TO HAVE TAKEN A PROMINENT PART IN THE MASSACRE, HE THEREFORE ABANDONED HIS FIRST POSITION OF OPPOSING THE KILLING, AND HE SHOULD THEREFORE REMEMBER SOMETHING OF THE ARGUMENT WHICH CARRIED CONVICTION TO HIS OWN HEART AND LED HIM TO TAKE PART IN SUCH A HORRIBLE DEED. BUT NO, NOT A WORD,NOT A SYLLABLE COULD HE REMEMBER. I NOW APPEAL TO YOU,AS</p> <p>MEN OF REASON,AND SOUND SENSE, AND ASK IF YOU COULD BELIEVE THIS STATEMENT ? I ASK NOTHING</p> <p>UNREASONABLE FROM YOU. ALL I ASK IS THAT YOU WILL DULY</p>	<p>I APPEAL TO YOU NOW GENTLEMEN AS GENTLEMEN OF ORDINARY SENSE</p> <p>I ASK NOTHING</p> <p>UNREASONABLE AT YOUR HANDS.</p>	<p><sup>[3]</sup> I APPEAL TO YOU NOW, GENTLEMEN, AS GENTLEMEN ORF ORDINARY SENSE .</p> <p>I ASK NOTHING <del>OF YOU</del> UNREASONABLE AT YOUR HANDS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WEIGH AND CONSIDER THE PROBABILITIES F THE TRUTH OF IT. HE NEXT GOES ON TO STATE THAT ON THE MONDAY FOLLOWING HE MET HIGBEE, HAIGHT AND OTHERS IN THE OLD FORT AT CEDAR CITY. A CONVERSATION IN REGARD TO THE DESTRUCTION OF THE EMIGRANTS TOOK PLACE, BUT HE COULD NOT REMEMBER ONE WORD OF WHAT WAS SAID, ALL HE COULD SAY WAS THAT THEIR DESTRUCTION WAS TALKED ABOUT. WHEN ASKED WHAT WAS SAID HE INVARIABLY SAID "I DON'T</p>	<p>THEN ON MONDAY HE MEETS HIGBEE HAIGHT AND OTHERS DOWN BY THE OLD FORT. THERE THAT CONVERSATION ON THE DESTRUCTION OF THE EMIGRANTS AGAIN CAME UP. WHAT WAS SAID IN THAT CONVERSATION [space] NOT A WORD COULD HE UTTER. OR TELL YOU, WITH THE EXCEPTION THAT THE DESTRUCTION OF THE EMIGRANTS WAS TALKED ABOUT.</p>	<p>THEN ON MONDAY HE MEETS HIGBEE , HAIGHT AND OTHERS DOWN BY THE OLD FORT. THERE THAT CONVERSATION ONF THE DESTRUCTION OF THE EMIGRANTS AGA IN CAME UP. WHAT WAS SAID IN THAT CONVERSAION? NOT A WORD COULD HE TELL. HE TOLD YOU WITH THE EXCEPTION UTTER OR TELL YOU WITH THE EXCEPTION THAT THE DESTRUCT ON THAT THE DESTR CTION OF THE EMIGRANTS WAS TALKED ABOUT.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>REMEMBER.” HE WAS ALWAYS READY WITH AN EXCUSE THAT HE COULD NOT REMEMBER,</p> <p>WHENEVER HE THOUGHT THERE WAS DANGER OF BEING CONTRADICTED.</p> <p>HE NEXT SAYS THAT HE AND JOEL WHITE WERE ORDERED BY HAIGHT TO CARRY A LETTER TO THE BISHOP AT PINTO,</p>	<p>AGAIN GENTLEMAN’S MEMORY IS AT FAULT, SHOULD I CALL HIM GENTLEMAN. AGAIN THE FELON’S MEMORIES WAS AT FAULT, AND AS JUDGE SUTHERLAND REMARKED, WHEREVER IT WAS POSSIBLE THAT WE MAY BE CONTRADICTIN G <del>HIM</del>, THEN HE FAILED TO RECALL, AND HIS MEMORY DID NOT SERVE HIM. [space] HE STARTED, HIS TESTIMONY IS JOEL WHITE WAS ORDERED TO GO TO PINTO AND DELIVER A LETTER TO BISHOP THERE</p>	<p>AGAIN, &amp; THE GENTLEMAN’S MEMORY WAS IS AT FAULT. SHOULD I CALL HIM , “GENTLEMAN?” AGAIN THE FELON’S MENMORY WAS AT FAULT. AND , AS JUDGE SUTHERLAND REMARKED WHEREVER IT WAS POSSIBLE THAT WE MIGHT BE ABLE TO CONTRADICT HIM , THEN HE FAILED TO RECOLLECT, OR HIS MEMORY DIDN’T SERVE HIM. HIS STORY THERE— HIS TESTIMONY 9 IS, THAT JOEL WHITE WAS ORDERED TO GO TO PINTO AND DELIVER A LETTER TO BISHOP</p>	
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**RT**

**RS**

**BT**

**PS**

<p>BUT HE DID NOT REMEMBER THE <sup>[5]</sup> CONTENTS OF THE LETTER,</p>	<p><del>SEEMS TO BE ROBINSON</del>[?]          ≤MR. ARCHER≥          &lt;SEE ROBINSON&gt; ≤HE SAYS            HAIGHT&gt;          ORDERED HIM TO GO WITH WHITE. THAT HAIGHT ORDERED HIM AND WHITE TO CARRY THIS LETTER, AND WHITE TO CARRY IT AND HE TO GO ALONG HE NOT KNOWING            CONTENTS OF IT. BUT HE GOES ON TO SAY WHAT IN THIS CONVERSATION GENTLEMEN WHERE IT WAS SAID &lt;THE&gt; DESTRUCTION OF ≤THE&gt; EMIGRANTS CAME UP IT WAS DETERMINED UPON AT THAT VERY INSTANT AT THAT TIME WHITE AND SMITH</p>	<p>RICHARD ROBINSON. HE SAYS THAT ISAAC C . HAIGHT ORDERED HIM TO GO WITH WHITE; THAT HAIGHT ORDERED HIM AND WHITE TO CARRY THIS LETTER, OR WHITE TO CARRY IT AND HE TO GO ALONG, AND YET HE KNOWS NOTHING OF THE CONTENTS OF IT. AND HE GOES ON TO SAY, IN THIS CONVERSATION, GENTLEMEN, WHERE IT WAS STATED, THE DESTRUCTION OF THE EMIGRANTS CAME UP AND WAS DETERMINED UPON , THAT, WITH THEIR UNDERSTANDING AT THAT TIME, QH WHITE AND SMITH,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>YET WAS POSITIVE THAT THE OBJECT OF THE MESSAGE WAS ONE OF PEACE AND DIRECTING THE BISHOP TO USE HIS INFLUENCE TO ALLAY THE ANGRY PASSIONS OF THE INDIANS. IN THIS PART OF HIS TESTIMONY HE IS CORROBORATED BY JOEL WHITE. THUS FAR, THAT THEY WERE SENT AS MESSENGERS OF PEACE TO PREVENT AN OUTBREAK BY THE INDIANS,WHO,HE SAID, “WERE EXCITED AND MAD” I NOW LEAVE IT TO YOU, GENTLEMEN, TO RECONCILE THIS STATEMENT WITH HIS FORMER ONE, IN REGARD TO THE DESTRUCTION OF THE EMIGRANTS, IF</p>	<p>ACCORDING TO HIS OWN TESTIMONY</p> <p>WERE SENT AS MESSENGERS OF PEACE TO ALLAY <del>THE</del> EXCITEMENT OF THE INDIANS AT PINTO.</p> <p>NOTWITHSTAND ING SMITH’S TESTIMONY HERE THAT THE DESTRUCTION OF EMIGRANTS</p>	<p>ACCORDING TO HIS OWN TESTIMONY</p> <p>WERE SENT AS MESSENGERS OF PEACE TO A LLAY THE EXCITEMENT OF THEINDIANS AT PINTO.</p> <p>NOTWITHSTAND ING SMITH’S TESTIMONY HERE, THAT THE DESTRUCTION OF THE EMIGRANTWS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>YOU CAN,</p> <p>ASKING YOU TO BEAR IN MIND THAT HE SAID THAT ON SUNDAY, HAIGHT CALLED UPON THE PEOPLE TO DESTROY THE EMIGRANTS,AND NOW HE,HAIGHT, SENT HIM AND JOEL WHITE</p> <p>WITH A MESSAGE OF PEACE AND ORDERED THE BISHOP TO</p> <p>RESTRAIN THE INDIANS THAT THE EMIGRANTS MIGHT PASS UNMOLESTED THROUGH THE COUNTRY.</p> <p>I WILL NEXT CALL YOUR ATTENTION TO</p>	<p>WAS <del>THE</del> SUBJECT OF THE <del>THE</del> CONVERSATION AND DETERMINED UPON, NOTWITHSTANDING THAT THAT HAD BEEN TALKED ON SUNDAY PREVIOUS THE DAY BEFORE,</p> <p>THEY WERE SENT AND ORDERED BY HAIGHT TO GO PINTO AND</p> <p>ALLAY EXCITED SAVAGES, THAT THESE EMIGRANTS MIGHT PASS</p> <p>THROUGH THE COUNTRY IN PEACE AND UNMOLESTED. HE GOES ON THEN I WILL CALL YOUR ATTENTION TO</p>	<p>WAS THE SUBJECT OF THE CONVERSATION ANSD DETERMINED UPON, NOTWITHSTANDING THAT HAD BEEN TALKED ABOUT ON THE SUNDAY PREVIOUS OR THE DAY BEFOERE<del>;</del>, YET HE SAYS THAT</p> <p>THEY WERE SENT AND ORDERED TO GO TO PINTO AND</p> <p>ALLAY THE <del>THE</del> EXCITED SAVAGES SO THAT THESE EMIGRANTS MIGHT PASS</p> <p>THROUGH THE COUNTRY IN PEACE AND UNMOLESTED . HE GOES ON THEN, AND I WILL CALL YOUR ATTENTION TO</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THAT PART OF THE TESTIMONY OF KLINGENSMITH WHEREIN HE IS CONTRADICTED BY JOEL WHITE AND OTHERS.</p> <p>THE THEORY OF THE PROSECUTION IS THAT KLINGENSMITH WAS COMPELLED TO DO ALL ACTS AND THINGS DONE BY HIM; AN UNWILLING ACTOR IN THIS BLOODY TRAGEDY, FROM THE BEGINNING TO THE END. TO SUPPORT THIS THEORY KLINGENSMITH ALWAYS USED THE EXPRESSION THAT HE DID AS HE WAS ORDERED. IT MUST BE BORNE IN MIND THAT</p>	<p>THE FACT</p> <p>WHERE MR. WHITE'S TESTIMONY DID NOT CORROBORATE THAT OF MR. SMITH'S MR. SMITH; WHO SAYS HE WAS ORDERED TO GO. <del>THE</del> THEORY OF MR. SMITH AND PROSECUTION HERE IS; SMITH WAS <sup>[[1]]</sup> COMPELLED TO DO THESE THINGS ALL THE TIME, AN UNWILLING ACTOR IN ALL THIS TRAGEDY FROM BEGINNING TO END.</p>	<p>THE FACT,</p> <p>WHERE MR. WHITE'S TESTIMONY DOES NOT CORROBERATE THAT OF MR. SMITH 'S. HE SAYS HE WAS ORDERED TO GO. <sup>[4]</sup> <del>WHA</del> THE THEORY OF THE PROSECUTION AND MR. SMITH HERE IS,, SMITH WAS COMPELLED TO <del>F</del>DO THESE THINGS HERE ALL THE TIME AND WAS AN UNWILLING ACTOR IN ALL THIS TRAGEDY FROM BEGINNING TO END.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITH WAS A BISHOP IN THE CHURCH AND HAD, THEREFORE, FEW SUPERIORS, BUT, ASIDE FROM THIS, JOEL WHITE, CALLED BY THE PROSECUTION, TESTIFIED THAT KLINGENSMITH VOLUNTEERED TO GO. HENCE, IT IS CLEAR, THAT KLINGENSMITH TOLD ANOTHER LIE.</p> <p>KLINGENSMITH SAYS THAT WHILE ON THE WAY</p> <p>TO PINTO</p> <p>HE AND JOEL WHITE MET JOHN D. LEE.</p>	<p>WHITE</p> <p>SWORE, SMITH VOLUNTEERED TO GO WITH HIM.</p> <p>THAT IS LIE NUMBER ONE OF THIS MAN SMITH.</p> <p>AGAIN WE FOLLOW HIM THEN TO PINTO. THEY WENT THERE; LETTER WAS DELIVERED; THEY</p> <p>RETURNED, AND ON THEIR WAY <del>←</del>BACK THERE THEY MET JOHN D. LEE. THAT WAS ONE OF MATERIAL POINTS IN THIS</p>	<p>WHITE</p> <p>SAYS, MR. SMITH VOLUNTEERED TO GO WITH HIM.</p> <p>THAT IS LIE NUMBER ONE OF THIS MAN KLINGENSMITH.</p> <p>AGAIN WE FOLLOW HIM THEN TO PINTO; THEY WENT THERE; THE LETTER WAS DELIVERED; THEY STARTED ON THEIR RETURN TO CEDAR; AND ON THEIR WAY BACK THERE THEY MET JOHN D. LEE. THAT WAS ONE OF THE MATERIAL POINTS OF THIS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THIS IS THE FIRST TIME THAT JOHN D. LEE HAS BEEN MENTIONED AT ALL, AND HERE LET ME CALL YOUR ATTENTION, A FEW MINUTES, TO THE PLAN OF THE PROSECUTION IN THIS MATTER. IT BECAME NECESSARY TO HAVE SOMEONE TO CORROBORATE THE TESTIMONY OF <sup>16j</sup> KLINGENSMITH;</p> <p>AND JOEL WHITE,</p> <p>AN ACCOMPLICE, WITH HIS HANDS AS DEEPLY DIED IN THE BLOOD OF THE UNFORTUNATE EMIGRANTS AS</p>	<p>PROSECUTION, THAT THEY SHOULD MEET JOHN D. LEE AND</p> <p>IT WAS NECESSARY GENTLEMEN, THAT SOMEBODY SHOULD CORROBORATE THIS MAN SMITH IN HIS TESTIMONY IN REGARD TO THE MEETING OF JOHN D. LEE WHITE COMES UPON THE STAND AN ACCOMPLICE, AND WITH HIS HANDS AS DEEPLY &lt;IN THE BLOOD OF THESE PARTIES&gt; IMBUED AS</p>	<p>PROSECUTION THAT <del>THAT</del> THEY SHOULD MEET JOHN D. LEE AND</p> <p>IT WAS NECESSARY , GENTLEMEN, THAT SOMEBODY SHOULD CORROBERATE THIS MAN SMITH, IN HIS TESTIMONY IN REGARD TO THE MEETING OF JOHN D. LEE. WHITE COMES UPON THE STAND WHO IS ANOTHER ACCOMPLICE, AND WITH HIS HANDS AS DEEPLY DIED IN THE BLOOD OFTHESE PARTIES, AS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITHS, IS SELECTED FOR THIS PURPOSE, THEREFORE, WHITE'S TESTIMONY BEGINS WITH THE JOURNEY TO PINTO,AND HE SAYS "WE MET JOHN D. LEE. [space]</p> <p>"QUESTION. WHAT DID JOHN D. LEE SAY ?</p> <p>ANSWER WHEN WE TOLD HIM THAT WE WERE GOING TO PINTO TO TRY TO ALLAY THE ANGRY PASSIONS OF THE INDIANS, SO THAT THE EMIGRANTS MIGHT PASS "ALONG,"</p> <p>HE ANSWERED "I HAVE SOMETHING TO SAY ABOUT IT,AND I WILL SEE B TO IT".</p>	<p>SMITH HIMSELF,  AND HE SAYS YES WE MET JOHN D. LEE &lt;NEAR THE CORNER OF THE&gt; FIELD WHAT DID JOHN D. LEE SAY. OLD SMITH SAYS THAT HE SAID WHEN HE TOLD THEM THEY WERE GOING PINTO FOR TO THERE ALLAY ANGRY PASSIONS OF THE INDIANS &lt;SO THAT THE&gt; EMIGRANTS MIGHT PASS THROUGH IN SAFETY, THAT LEE MADE THE REMARK, "I HAVE SOMETHING TO SAY ABOUT IT, AND WE'LL WILL SEE ABOUT IT"; I THINK THAT IS THE EXACT LANGUAGE OF LEE, BUT HERE</p>	<p>SMITH HIMSELF,  AND HE SAYS, "YES WE MET JOHN D. LEE NEAR THE CORNER OF THE FIELD." WHAT DID JOHN- D. LEE SAY? OLD SMITH SAYS, THAT HE <del>TOLD</del>-SAID WHEN HE TOLD HIM THAT THEY WERE GOING TO PINTO FOR TO ALLAY THE ANGRY PASSIONS OF THE INDIANS SO THAT THE EMIGRANTS MIGHT PASS THROUGH IN SAFETY THAT LEE MADE THE REMARK, "I HAVE SOMETHING TO SAY ABOUT IT", OR, "WE WILL SEE ABOUT IT;" I THINK THAT IS THE EXACT LANGUAGE OF LEE. BUT HERE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>NOW, I WANT TO CALL ATTENTION TO THE PLOT BETWEEN KLINGENSMITH AND JOEL WHITE, AND IN WHICH THEY HAVE BEEN ASSISTED BY BILL HICKMAN, SINCE THIS TRIAL COMMENCED. WHITE HAS BEEN KEPT HID HERE IN BEAVER, IN ORDER TO PREVENT ANY OF THE ATTORNEYS FOR THE DEFENSE, OR ANYBODY ELSE EXCEPT THOSE CONCERNED IN THE PLOT, FROM SPEAKING TO HIM; HE HAS BEEN KEPT IN THE</p>	<p>WAS WHERE PUT UP JOB CAME UP</p> <p>WHITE WAS SHADED WHEN HE CAME TO THIS TOWN AND PREVENTED FROM RUNNING AT LARGE HERE, FOR FEAR WHITE SHOULD COULD BE TALKED TO BY SOME OF THE COUNSEL OF DEFENSE OR BY SOMEBODY ELSE HE WAS TAKEN WHERE, WHERE <i>IS/AS</i>[?]</p> <p>AN ASSOCIATE AND</p>	<p>WAS WHERE THE PUTTING UP OF THE JOB CAME UP.</p> <p>WHITE WAS SHADED WHEN HE CAME TO THIS TOWN, AND PREVENTED FROM RUNNING AT LARGE HERE, FOR FEAR THAT WHITE SHOULD <del>TA</del> BE TALKED TO BY SOME OF THE COUNSEL FOR THE DEFENDANT OR BY SOMEBODY ELSE, AND HE WAS TAKEN WHERE? WHERE, AS WE ARE TOLD, HE COULD ASSOCIATE AND BE <del>WITH</del></p>	
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**RT**

**RS**

**BT**

**PS**

<p>ROOM OCCUPIED BY KLINGENSMITH AND BILL HICKMAN. AS EVIDENCE</p> <p>JUSTIFYING ME IN MAKING THIS STATEMENT, I WILL CALL YOUR ATTENTION TO WHAT HE HIMSELF SAID ON THE WITNESS STAND. HE ASKED HIM</p> <p>IF HE WAS PERMITTED TO SPEAK TO THE DEFENDANTS ATTORNEYS. HE ANSWERED THAT HE WAS NOT; AND THAT HE WAS IN THE HANDS AND CUSTODY OF BILL HICKMAN.</p> <p>THE COURT</p>	<p>ASSOCIATED WITH THIS MAN KLINGENSMITH,</p> <p>AS THE EVIDENCE OF THAT FACT <del>IS</del> WE <del>WILL</del> FOLLOW IT LITTLE FURTHER, TO SHOW YOU I AM JUSTIFIABLE IN MAKING THE REMARK.</p> <p>THE QUESTION WAS ASKED WHITE, HERE IN COURT HOUSE IF HE WAS PERMITTED TO TALK TO ANY OF US?</p> <p>HE SAID HE WAS NOT, SAID WAS NOT UNDER INFLUENCE AND CUSTODY OF BILL HICKMAN.</p> <p>THE COURT</p>	<p>ASSOCIATED WITH THIS MAN KLINGENSMITH,</p> <p>AS THE EVIDENCE OF THAT <del>FAV</del> FACT; IS; AND WE WILL FOLLOEW IT A LITTLE FURTHER TO SHOW YOU I AM JUSTIFIABLE IN MAKEING THE REMARK.</p> <p>THE QUESTION Q WAS ASKED WHITE, HERE IN THE COURT HOUSE, IF HE WAS PERMITTED TO TALK TO ANY ORF US.</p> <p>HE SAID HE WAS NOT; AND HE SAID HE WAS IN THE CUSTODY OF BILL HICKMAN. AFTER THIS FACT WAS BROUGHT TO THE KNOWLEDGE OF THE <sup>[5]</sup> COURT,</p> <p>THE COURT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THEREUPON ORDERED THAT HE BE AT LIBERTY TO TALK WITH THESE ATTORNEYS.</p> <p>WE ALSO ASKED HIM TO MAKE A DIAGRAM OF THE GROUND</p> <p>OF THE EMIGRANT'S CAMP AND CORRALL, ALSO OF <del>R</del> THE ROUTE WHICH THE EMIGRANTS TRAVELLED WHEN THEY LEFT THE CORRALL AND ALSO THAT TRAVELLED BY THE TWO WAGONS. BEFORE HE HAD TIME TO ANSWER THE COURT ADJOURNED, AFTER ORDERING HIM TO PREPARE THE DIAGRAM AND PRODUCE IT WHEN THE COURT MET AGAIN AFTER</p>	<p>ORDERED HE MIGHT BE PERMITTED TO TALK TO US. BUT JUST PRIOR TO THAT TIME, ON CROSS EXAMINATION WHEN COURT ADJOURNED, WE ASKED HIM TO MAKE <del>A</del> DIAGRAM OF THE GROUND AND THE ROUTE OF THE EMIGRANTS AND THE TWO WAGONS WHAT WAS TAKEN</p> <p>&lt;AFTER THEY CAME&gt; OUT OF THAT CORRAL.</p>	<p>ORDERED THAT HE MIGHT BE PERMITTED TO TALK TO US, BUT JUST PRIOR TO THAT TIME, ON CROSS-EXAMINATION WHEN THE COURT ADJOURNED, WE ASKED HIM TO MAKE A <del>DAI</del> DIAGRAM OF THE GROUND AND THE ROUTE <del>OF</del> AND THE EMIGRANTS AND THE TWO WAGONS THAT WAS TAKEN</p> <p>AFTER THEY CAME OUT OF THE CORRAL.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>RECESS. HE THEN CAME IN WITH A DIAGRAM,</p> <p>AND WE ASKED HIM THE QUESTION “WHO MADE THIS DIAGRAM” HE ANSWERED <sup>[7]</sup> “KLINGENSMITH ASSISTED ME TO MAKE THAT DIAGRAM, HE, SMITH, GAVE ME SOME IDEAS. I DREW THE PENCIL MYSELF, <del>B</del> BUT THE IDEAS WERE KLINGENSMITHS ” NOW, GENTLEMEN, AM I NOT JUSTIFIED IN SAYING THAT THIS WAS A PUT</p>	<p>HE CAME BACK IN HERE WITH {A}<sup>1</sup> DIAGRAM. GENTLEMEN WE WERE NOT PERMITTED HERE BY THE COURT TO SHOW DIAGRAM TO HIM HAVE YOU —[?] IT, LOOKS[?] DIAGRAM DRAWN OUT BY JUDGE SPICER UPON THE TABLE HE COMES IN HERE WITH DIAGRAM. &lt;THE&gt; QUESTION WAS ASKED MR. <del>HIM</del> &lt;WHITE&gt; WHO MADE THE DIAGRAM &lt;HE SAID&gt; KLINGENSMITH ASSISTED ME IN MAKING THAT DIAGRAM. HE GAVE ME SOME IDEAS I DREW THE PENCIL MYSELF BUT THE IDEAS <sup>[[12]]</sup> WERE KLINGENSMITH’ S. AM I NOT JUSTIFIABLE IN SAYING THAT THIS MAN</p>	<p>HE CAME BACK INHERE WITH A D IAGRAM. GENTLEMEN, WE <del>W</del>ARE NOT PERMITTED HERE BY THE COURT TO SHOW THE DIAGRAM TO YOU.</p> <p>THE QUESTION WAS ASKED MR. WHITE WHO MADE THE DIAGRAM. HE SAID, “KLINGENSMITH , ASSISTED ME IN <del>K</del>MAKING THAT DIAGRAM, HE, GAVE ME SOME IDEAS; I DREW THE PENCIL MYSELF, BUT THE IDEAS WERE KLINGENSMITH’ S.” AM I NOT JUSTIFIED IN SAYING THAT THIS MAN</p>	
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**RT**

**RS**

**BT**

**PS**

<p>UP JOB, WHITE WAS BROUGHT HERE AND TRAINED BY BILL HICKMAN, AND KLINGENSMITH, SO THAT HE MIGHT CORROBORATE THE PERJURER KLINGENSMITH.</p> <p>HE DID CORROBORATE HIM</p> <p>ON ONE POINT, AND ON ONE POINT ONLY, AND THAT WAS IN REGARD TO THE CIRCUMSTANCES OF GOING TO PINTO AND THE MEETING OF JOHN D. LEE ON THE ROAD. IT IS QUITE LIKELY THAT KLINGENSMITH AND WHITE HAD SOME</p>	<p>WHITE WAS BROUGHT HERE</p> <p>FOR PURPOSE CORROBORATING SMITH TESTIMONY. IN ONE TO TWO MATERIAL POINTS HE DID CORROBORATE HIM, WHEN BILL HICKMAN WAS CUSTODIAN THAT MAN WHITE, THIS CORROBORATION WAS AT THE DICTATION OF BILL HICKMAN,</p> <p>AND THAT WHITE AND SMITH HAD</p>	<p>WHITE WAS BROUGHT HERE</p> <p>FOR THE PURPOSE OF CORROBORATING SMITH'S TESTIMONY? IN ONE OR TWO IMMATERIAL POINTS HE DID CORROBORATE HIM, BUT WHEN BILL HICKMAN WAS THE CUSTODIAN OF THAT MAN WHITE, THIS CORROBORATION WAS AT THE DICTATION OF BILL HICKMAN</p> <p>AND THAT WHITE AND SMITH HAD</p>	
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**RT**

**RS**

**BT**

**PS**

<p>CONVERSATION TOGETHER, AND THEREFORE, WITH THE AID OF BILL HICKMAN, THEY PUT UP THIS JOB, BUT THERE WERE SEVERAL POINTS IN KLINGENSMITH'S TESTIMONY WHICH IT WOULD HAVE BEEN MATERIAL TO CORROBORATE, BUT SUCH ESCAPED THEIR NOTICE. SUCH MEN AS HICKMAN, KLINGENSMITH AND WHITE EVEN ARE NOT CAPABLE OF CONCOCTING SUCH A STORY AS WILL STAND THE TEST OF A CROSS-EXAMINATION, WITHOUT EXPOSING ITS FALLACY, AND IT FULLY APPEARS IN THIS CASE THAT THEIR NEFARIOUS DESIGN WAS AN ABSOLUTE FAILURE.</p>	<p>CONVERSED TOGETHER UPON THESE POINTS, BUT WHENEVER YOU SEE JOB OF THAT KIND, YOU WILL SEE SOME MATERIAL POINTS THAT THE INGENUITY OF MAN IS HARDLY CAPABLE OF CONCEIVING BEFORE HAND.</p>	<p>CONVERSED TOGETHER UPON THESE POINTS; BUT WHEN YOU SEE A JOB OF THAT KIND YOU WILL ALSO SEE SOME MATERIAL POINTS THAT THE INJENUITY OF MAN IS HARDLY CAPABLE OF CONCEIVING BEFORE HAND.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITH AND WHITE PROCEED ON THEIR ERRAND OF MERCY, SENT BY HAIGHT TO DELIVER THE MESSAGE TO BISHOP ROBINSON AT PINTO. KLINGENSMITH</p>	<p>⤵ LET US FOLLOW THIS TESTIMONY WHILE FURTHER AND WE SHALL SEE IF THAT IS NOT THE CASE, IF THAT IS NOT A REASONABLE CONCLUSION TO DRAW FROM CASE AS IT STANDS BEFORE YOU. THEY GO TO PINTO, THEY GO THERE ON AN ERRAND OF MERCY. IS THE TESTIMONY OF WHITE AND KLINGENSMITH NEITHER OF THEM THAT ARE ENTITLED TO PARTICLE OF CREDIT TO GIVE THEM TAKE THEIR TESTIMONY TO BE TRUE. THAT THEY WAS ⤵ SENT THERE ⤵ <del>ORDERED</del> THEY GO ON AN ERRAND OF MERCY.</p>	<p>LET US FOLLOW THIS TESTIMONY A LITTLE FURTHER AND WE SHALL SEE THAT THAT IS NOT THE CASE; IF THAT IS NOT A REASONABLE CONCLUSION TO DRAW FROM THE CASE AS IT STANDS BEFORE YOU. THEY GO TO PINTO, THEY GO THERE ON AN ERRAND OF MERCY. AS THE TESTIMONY OF WHITE AND KLINGENSMITH, NEITHER OF THEM ARE ENTITLED TO A PARTICLE OF CREDIT <del>OR</del> TO GIVE THEM, OR TO TAKE THEIR TESTIMONY TO BE TRUE. THEY SAY THAT THEY WAS SENT FOR TO GO ON AN ERRAND <del>OR</del> OF MERCY.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>TESTIFIED THAT WHILE ON THEIR WAY, RETURNING FROM PINTO TO CEDAR THEY MET IRA ALLEN.</p> <p>THEY ASKED HIM IF THERE WAS ANYTHING NEW. HE ∴ ALLEN ∴ ANSWERED <u>“THE EMIGRANTS MUST DIE, THE DIE IS CAST THEIR DOOM IS SEALED”</u> THIS IS IMPORTANT EVIDENCE, IN SOME RESPECTS, AND IF TRUE TENDS TO STRENGTHEN THE CASE FOR THE PROSECUTION, BUT IT SEEMS THAT HICKMAN AND KLINGENSMITH HAVE NEGLECTED TO POST WHITE UPON THIS PARTICULAR POINT.</p> <p>WHITE SAYS</p>	<p>ON THEIR RETURN BACK THEY MET IRA ALLEN. AND HERE THIS MAN SMITH SAYS WHEN HE MET IRA ALLEN, HE ASKED HIM WHAT THE NEWS WAS? HE SAYS THE EMIGRANTS MUST DIE, “THE DIE IS CAST THEIR DOOM IS SEALED”.</p> <p>DID WHITE HEAR THAT CONVERSATION; WHITE SAYS</p>	<p>ON THEIR RETURN TOGETHER THEY MET IRA ALLEN, AND HERE THIS MASN SMITH SAYS , WHEN HE MET IRA ALLEN, HE ASKED HIM WHAT THE NEWS WAS. HE SAUYS, “THE EMIGRANTS <del>MUST</del> MUST DIE; THE DIE IS ECAST THE DOOM IS SEALED.”</p> <p>DID WHITE HEAR THAT CONVERSATION ? WHITE SAYS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THAT THEY ∴ HIMSELF AND KLINGENSMITH ∴ DID NOT MEET IRA ALLEN,</p> <p>AND OR COURSE,NOT HAVING MET HIM NO SUCH CONVERSATION COULD HAVE TAKEN PLACE. HERE THE PLOT FAILED UPON A VERY MATERIAL POINT <sup>[8]</sup> AND THIS CIRCUMSTANCE TENDS TO SHOW THAT HICKMAN AND KLINGENSMITH WERE NOT EQUAL TO THE TASK FOR WHICH THEY HAD BEEN SELECTED.</p>	<p>THEY</p> <p>DID NOT MEET IRA ALLEN.</p> <p>WHITE THEN COULD NOT HAVE HEARD ANY SUCH CONVERSATION.</p> <p>HERE IS WHERE THE PLOT FAILED, AND</p> <p>BILL HICKMAN</p> <p>WAS NOT EQUAL TO THE OCCASION OF POSTING THIS MAN WHITE ON ALL THE POINTS. THERE SHOULD HAVE SELECTED SOME ONE ELSE. HERE IS WHERE THE TESTIMONY FAILS, AND &lt;THIS IS&gt; LIE NUMBER 2</p>	<p>THEY</p> <p>DIDN'T MEET IRA ALLEN. WHITE SAYS THEY DIDN'T <sup>[6]</sup> MEET IRA ALLEN.</p> <p>WHITE THEN COULD NOT HAVE HEARD ANY SUCH CONVERSATION.</p> <p>HERE IS WHERE THE PLOT FAILED, AND</p> <p>BILL HICKMAN</p> <p>WASN'T EQUAL TO THE OCCASION OF POSTING THIS MAN WHITE ON ALL THE POINTS. THEY SHOULD HAVE SELECTED SOMEONE ELSE. HERE IS WHERE THE TESTIMONY FAILS. AND THIS IS LIE NUMBER TWO</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THERE IS ANOTHER CIRCUMSTANCE THAT THROWS DISCREDIT UPON THE TESTIMONY OF KLINGENSMITH, NAMELY, THAT WHILE HE CANNOT REMEMBER A WORD OF WHAT WAS SAID AT THE MEETING ON SUNDAY OR IN THE CONVERSATION HAD IN THE OLD ON MONDAY, HE NOW DETAILS DISTINCTLY THE VERY WORDS SPOKEN BY ALLEN AT A CASUAL MEETING ON THE ROAD TO PINTO. RECONCILE THESE FAULTS AND CONTRADICTORY STATEMENTS, IF YOU CAN, GENTLEMEN OF THE JURY, AND THEN SAY THAT THE EVIDENCE CONVINCES YOU, BEYOND A</p>	<p>OF THIS MAN SMITH.<sup>474</sup></p> <p>RECONCILE THESE FACTS</p> <p>IF YOU CAN GENTLEMEN</p> <p>SAY <math>\Leftarrow</math>IF<math>\Rightarrow</math> JOHN D. LEE CAN BE CONVICTED UPON SUCH</p>	<p>OF THIS MAN KLINGENSMITH.</p> <p>RECONCILE THESE FACTS</p> <p>IF YOU CAN, GENTLEMEN, AND SAY IF JOHN D. LEE CAN BE CONVICTED UPON SUCH</p>	
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474. Above the shorthand in longhand: **LIE NO 2 OF THIS MAN K SMITH.**

**RT**

**RS**

**BT**

**PS**

<p>REASONABLE DOUBT, AND TO A MORAL CERTAINTY THAT JOHN D. LEE IS GUILTY AS CHARGED IN THE INDICTMENT. DO YOU BELIEVE THAT AFTER THIS MESSAGE</p> <p>OF MERCY</p> <p>HAD BEEN SENT BY THE ORDER OF HAIGHT THE MEETING OF AND CONVERSATION WITH IRA ALLEN COULD HAVE</p> <p>ESCAPED WHITE'S ATTENTION ? DO YOU NOT BELIEVE THAT SUCH CONVERSATION WOULD HAVE MADE AN IMPRESSION UPON THE MEMORY OF WHITE AS LASTING AS</p>	<p>TESTIMONY. BUT WE GO ON AGAIN.</p> <p>AFTER THAT AND IF THIS MESSAGE COULD <i>REFLECT</i>[?] MESSAGE OF <i>CHRIST'S</i>[?] MERCY, <math>\leq</math>THESE GENTLEMEN<math>\geq</math> THESE GENTLEMEN <i>HAD</i>[?] BEEN BEARERS OF <i>HATE/HAIGHT</i>[?]</p> <p>EVEN DO YOU THINK —[?] IT COULD HAVE TAKEN PLACE AND THIS MAN WHITE NOT HAVE KNOWN IT WOULD IT OCCURRED <del>ASK</del> SAYING <math>\leftarrow</math>TO<math>\rightarrow</math> HIM WOULD HAVE MADE IMPRESSION UPON HIS MIND AS LASTING AS</p>	<p>TESTIMONY. BUT WE GO ON AGAIN <del>AFTER THAT, AND</del></p> <p>AFTER THIS MESSAGE OR HARBINGER OR MESSENGER</p> <p>OF MERCY. IF THESE GENTLEMEN</p> <p>HAD BEEN BEARERS OF IT <del>BEFORE</del>,</p> <p>DO YOU THINK IT COULD HAVE TAKEN PLACE AND THIS MAN WHITE NOT HAVE KNOWN IT <del>NO</del>R KNOWN THAT IT OCCURRED. IF IT HAD, I ASK YOU WOULD IT NOT HAVE MADE AN <del>I</del>MPRESSION UPON HIS MIND AS LASTING AS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>LIFE ITSELF.</p> <p>PERMIT ME TO DIGRESS HERE ONE MOMENT, FOR THE PURPOSE OF STATING WHAT I UNDERSTAND TO BE THE THEORY OF THE PROSECUTION. NONE OF THE WITNESSES SAW JOHN D. LEE AT CEDAR CITY, IF THEY HAD TESTIFIED THAT THEY SAW HIM AT THAT PLACE THEY PERCEIVE THAT IT WOULD HAVE BEEN EASY TO DISPROVE THEIR FALSE STATEMENTS. THEY, THEREFORE, MEET LEE; SOLITARY AND ALONE , SOME DISTANCE FROM CEDAR, IN ORDER THAT IT SHOULD HAVE BEEN IMPOSSIBLE TO CONTRADICT THEM, AND STILL IT WAS</p>	<p>MIND ITSELF. IT SEEMS GENTLEMEN HENCE WHEN WE HEAR OF I WILL STOP HERE ONE MOMENT.</p> <p>THE THEORY OF &lt;THE&gt; PROSECUTION IS THIS;</p> <p>IT IS</p>	<p>HIS MINED ITSELF. IT IS IMPOSSIBLE , GENTLEMEN;.</p> <p>THE THEORY OF THE PROSECUTION I S THIS:</p> <p>IT IS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>NECESSARY, TO SUPPORT THEIR PLAN AGAINST LEE THAT HE SHOULD BE SEEN IN THAT VICINITY IN ORDER THAT HE MIGHT WITH PLAUSIBILITY, BE CHARGED WITH HAVING BEEN CONNECTED WITH THE CONSPIRACY CLAIMED TO BE ENTERED INTO AT CEDAR. YOU MUST RECOLLECT THAT <sup>[9]</sup> LEE LIVED AT HARMONY AT THIS TIME, SOME TWENTY FIVE MILES DISTANT AND SOUTH OF CEDAR CITY, AND ALSO THAT THE EMIGRANTS HAD NOT YET PASSED AND YET</p>	<p>NECESSARY GENTLEMEN IN ALL THESE THINGS <i>AND</i>[?]</p> <p>SHOULD CONNECT JOHN D. LEE HERE PRIOR TO THIS TIME</p> <p>SMITH SAYS, JOHN D. LEE WAS SENT TO INCITE THE INDIANS. AND PRIOR TO THE POINT I AM NOW AT, WHO SAID SO <sup>[[13]]</sup> WHY SMITH</p>	<p>NECESSARY THAT THE GENTLEMEN IN ALL THESE THINGS</p> <p>SHOULD CONNECT JOHN D. LEE, AND PRIOR TO THIS TIME</p> <p>SMITH SAYS, JOHN D. LEE WAS SENT TO INCITE THE INDIANS. PRIOR TO THE POINT I AM NOW <del>AT</del> AT. WHO SAID SO? WHY SMITH,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITH TESTIFIES THAT HAIGHT TOLD HIM THAT HE HAD ALREADY SENT LEE TO INCITE THE INDIANS TO BUTCHER THE EMIGRANTS.</p> <p>KLINGENSMITH ALSO TESTIFIED THAT WHILE HE AND WHITE WERE RETURNING FROM PINTO ON THE TUESDAY MORNING THEY MET THE EMIGRANTS JUST LEAVING CAMP, SOME SIX MILES EAST OF PINTO AND ABOUT TWENTY TWO MILES WEST OF</p>	<p>HIMSELF, &lt;HE&gt; DIDN'T HAVE HARDIHOOD TO SAY HE WAS PRESENT, HE SAYS HAIGHT TOLD HIM HE HAD SENT HIM INCITE THE INDIANS TO INSURRECTION, OR RATHER TO MURDER THE EMIGRANTS. BISHOP AND THAT LEE HAD GONE BELOW.</p> <p>SOMEBODY ELSE AT LEAST TOLD THIS MAN SO THIS MAN SMITH.</p>	<p>HIMSELF. HE DIDN'T HAVE THE HARDIHOOD TO SAY HE WAS PRESENT, HE SAYS HAIGHT TOLD HIM <del>HIM</del> HE HAD SENT HIM TO INCITE THE INDIANS TO AN INSURRECTION; OR RATHER TO MURDER THE EMIGRANTS. BISHOP: AND THAT LEE HAD GONE BELOW. HOGE: SOMEBODY ELSE AT LEAST TOLD THIS MAN SO, THIS MAN SMITH.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>CEDAR. HOW CAN THIS STATEMENT BE TRUE. IF THE EMIGRANTS DID NOT PASS THROUGH CEDAR CITY UNTIL THE FOLLOWING FRIDAY, AS BEFORE STATED BY HIM. I WILL NEXT CALL YOUR ATTENTION TO THE TESTIMONY OF KLINGENSMITH AT THE FIELD OF SLAUGHTER. IN ORDER TO CONVICT LEE, IT WAS NECESSARY FOR THE PROSECUTION TO BRING HIM IN AS THE LEADING SPIRIT AT THAT PLACE. UPON THIS POINT THEY FAILED ALSO, BUT THEY INSIST THAT YOU MUST OVERLOOK THEIR FAILURES AND CONVICT HIM UPON THE STATEMENT, CONTRADICTOR Y, AND</p>	<p>THEN WE GO TO THE FIELD, AND AS BEFORE SAID IT WAS NECESSARY (AND I WANT YOU KEEP THIS POINT IN VIEW) JOHN D. LEE MUST BE ACTIVE PARTICIPANT THEREON IN THIS TRANSACTION FIELD AND UPON TESTIMONY OF THIS PERJURED VILLAIN SMITH HIMSELF AND ALLEN BEGIN TO MAKE THE</p>	<p>THEN WE GO TO THE FIELD, AND AS BEFORE SAID IT WAS NECESSARYRT,— AND I WANT YOU TO KEEP THIS POINT IN VIEW—THAT JOHN D. LEE MUST BE AN ACTIVE PARTICIPANT THERE IN THIS TRANSACTION ON THE FIELD. AND UPON THE TESTIMONY OF THIS PERJURED VILLAIN SMITH, HIMSELF AND ALLIES AGAINST THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>CONTRADICTED AS IT IS, OF THIS MAN KLINGENSMITH, WHO STANDS BEFORE YOU IN THE CHARACTER OF A CONFESSED ASSASSIN. WHEN THEY ARRIVE AT THE MOUNTAIN MEADOWS JOHN D. LEE, ACCORDING TO KLINGENSMITH, IS IN COMMAND OF THE TROPOPS. THEY WERE CALLED TROOPS BY THE PROSECUTION AND BY KLINGENSMITH. THE MEN FROM WASHINGTON WERE DENOMINATED SOUTHERN SOLDIERS AND THE MEN FROM CEDAR WERE CALLED NORTHERN SOLDIERS. LEE, AS I SAID BEFORE, MUST BE THE LEADING SPIRIT AND INCITE THE MEN FROM THE FRAY, CONSEQUENTLY, HE MUST MAKE A SPEECH, AND</p>	<p>CONNECTION.</p>	<p>EMIGRANT PARTY;</p>	
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**RT**

**RS**

**BT**

**PS**

<p>ISSUE WORDS OF COMMAND; BUT HOW IS HE TO DO THIS SO THAT ALL CAN HEAR HIM ? SOME CONTRIVANCE MUST BE RESORTED TO THAT ALL THE MEN IN THE RANKS MAY HEAR HIM. KLINGENSMITH EXPLAINS HOW THIS WAS DONE. HE SAYS “THE TROOPS WERE ORDERED TO FORM A HOLLOW SQUARE” THAT IS IT, GENTLEMEN, A HOL-<sup>[10]</sup> LOW SQUARE WAS FORMED AND NOW THE SOLDIERS CAN HEAR WHAT IS SAID. SO FAR SO GOOD, BUT NOW LET US SEE OF HOW MANY MEN THESE TROOPS CONSISTED. ALL THE WITNESSES TOGETHER CAN ACCOUNT BUT FOR TWENTY FOUR MEN ONLY; AND SUPPOSE THERE</p>	<p>THEY GO TO THE FIELD, 24<sup>475</sup> MEN; 6 OF THESE MR.</p>	<p>THEY GO TO THE FIELD—24 MEN—AND SIX OF THESE MEN,</p>	
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475. “2” was written over an illegible digit or character.

**RT**

**RS**

**BT**

**PS**

<p>HAD BEEN THIRTY TWO MEN,</p> <p>THAT WOULD HAVE FORMED A SQUARE OF EIGHT MEN TO A SIDE, AND WOULD HAVE TAKEN UP TWELVE FEET SQUARE, ALLOWING EIGHTEEN INCHES TO EACH MAN, ACCORDING TO MILITARY RULES.</p>	<p>SMITH HIMSELF <del>WAS/SAY[?]</del> WERE NOT IN THE RANKS WERE NOT WHERE <del>THEY</del> COULD BE <del>CALL</del>ED INTO HOLLOW SQUARE. HOW BIG A SQUARE WOULD IT MAKE MAKING 4 SIDES, THAT WOULD HAVE BEEN ABOUT 4 MEN ON A SIDE, IT WOULD HAVE MADE A SQUARE WITH 4 MEN ON EACH SIDE, BECAUSE SMITH HIMSELF SAYS THERE WAS ABOUT 6 OF MEN THERE THAT WERE NOT IN THE SQUARE, AND TAKE 30 MEN CONSTITUTE THAT SQUARE</p> <p>WHAT WAS THAT SQUARE FORMED FOR IT MUST HAVE BEEN FOR SOME PURPOSE. THAT</p>	<p>SMITH HIMSELF SAYS WERE NOT IN THE RANKS— WERE NOT WHERE THEY COULDBE CALLED INTO THE HOLLOW SQUARE. HOW BIG A SQUARE WOULD IT MAKE OF FOUR SIDES? <sup>[7]</sup> THERE WOULD HAVE BEEN ABOUT FOUR <del>K</del>MEN ON EACH SIDE—IT WOULDHAVE <del>A</del>MAMDE A <del>S</del>WQUARE WITH ABOUT FOUR MEN ON EACH SIDE; BECAUSE SMITH HIMSELF SAYS THERE WAS ABOUT SIX OF THE MEN THERE THAT WERENOT IN THE SQUARE. AND TAKING 30 MEN IN</p> <p>THAT SQUARE, IF THAT WAS WHAT THE SQUARE WAS FORMED FOR; AND IT MUST HAVE BEEN FOR <del>M</del>SOME PURPOSE. THAT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>JUST IMAGINE, GENTLEMEN, THE COMMANDER STANDING IN THE MIDDLE OF THAT IMMENSE SQUARE, MAKING THAT INCITING SPEECH, WHICH WAS TO FIRE THE HEARTS OF THE TROOPS, AND, RAISING HIS</p>	<p>IS THEORY OF THE PROSECUTION THE IDEA QUOTED BY CONVEYED BY THIS MAN SMITH VARIES WITH WHITE'S SO <i>LARGE/MUCH[?],</i> <i>THAT IS[?]</i> JOHN D. LEE COULD NOT MAKE THEM TO HEAR [<i>space</i>] THEY CONSOLIDATED THEM IN A SQUARE SO THEY COULD BE HEARD ALL AROUND. WAS IT NECESSARY TO FORM SQUARE OF 30 MEN FOR THAT PURPOSE AND IT IS RIDICULOUS;</p>	<p>IS THE THEORY OF THE PROSECUTION AND YET IT COULD NOT BE CONVEYED BY THIS MAN SMITH WHO VARIES WITH WHITE SO MUSH; THAT IS <b>THAT</b> <del>THAT</del> JOHN D. LEE COULD NOT MAKE THEM HEAR, AND HE CONSULTED THEM IN THE SQUARE SO THAT HE COULD BE HEARD ALL AROUND . WAS IT NECESSARY TO FORM A SQUARE FOR THAT PURPOSE? IT IS RIDICULOUS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>VOICE TO THE HIGHEST PITCH, SO THAT ALL THE SOLDIERS MIGHT HEAR HIM, DON'T YOU THINK HE GOT HOARSE. THIS GENTLEMEN, IS NO FANCY PICTURE OF MINE. THE PROSECUTION HAVE CONVEYED THE IDEA THAT THERE WERE SO MANY MEN PRESENT, AND THAT IT BECAME NECESSARY FOR JOHN D. LEE TO PUT THEM THROUGH THESE MILITARY EVOLUTIONS AND FORM THEM INTO A HOLLOW SQUARE, IN ORDER THAT THEY MIGHT HEAR WHAT WAS SAID, BUT, UNFORTUNATELY, THIS THEORY, HAS ONE DEFECT, AND THAT IS IT IS NOT TRUE. JOEL WHITE SAYS THAT NO HOLLOW SQUARE WAS</p>	<p>THERE IS ANOTHER POINT GENTLEMEN WHERE BILL HICKMAN WAS AT FAULT AGAIN, FOR WHITE SAYS THERE WAS NO SUCH HOLLOW SQUARE</p>	<p>AND THERE IS ANOTHER POINT, GENTLEMEN, WHERE BILL HICKMAN WAS AT FAULT AGAIN; <del>W</del>FOR WHITE SAYS THERE WAS NO SUCH HOLLOW SQUARE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>FORMED</p> <p>AND HE IS CORROBORATED BY YOUNG, PEIRCE AND POLLOCK, WHO ARE ALL WITNESSES FOR THE PROSECUTION, AND THUS AGAIN THE PLOT OF HICKMAN AND KLINGENSMITH FAILS TO GET WITNESSES TO CORROBORATE THE CHIEF PERJURER IN THIS CASE. GENTLEMEN, NO HOLLOW SQUARE WAS FORMED, AND YOU MAY SAFELY CONCLUDE THAT NO SPEECH WAS MADE. THE WHOLE IS A FABRICATION TO SUPPORT THE TESTIMONY OR STATEMENT OF KLINGENSMITH,</p>	<p>FORMED. IT IS LIE NUMBER 3 OF SMITHS<sup>476</sup> [space] IN ADDITION TO WHAT WHITE SAYS IN REGARD TO THAT, THERE IS THE TESTIMONY OF YOUNG POLLOCK AND THE MAN WITH THE BOTS, AND THEY ALL SAY NO SUCH SQUARE WAS FORMED DO YOU BELIEVE FOR A MOMENT THERE WAS SUCH A SQUARE FORMED.</p>	<p>FROMED. THAT IS LIE NUMBER THREE OF SMITH'S. IN ADDITION TO WHAT WHITE SAYS IN REGARD TO THAT, THERE IS TESTIMONY OF YOUNG AND POLLOCK, AND THE MAN WITH THE BOTS. AND THEY ALL SAY NO SUCH SQUARE WAS FORMED. DO YOU BELIEVE FOR A MOMENT THERE WAS SUCH A SQUARE FORMED?</p>	
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476. Above the shorthand in longhand: **NO 3 SMITHS.**

**RT**

**RS**

**BT**

**PS**

<p>THAT THE PLAN OF DECOYING THE EMIGRANTS OUT OF THEIR STRONGHOLD WAS LAID AT CEDAR CITY AND THAT LEE, AS COMMANDER, WAS TO LAY THIS PLAN BEFORE THE TROOPS, WHICH, ACCORDING TO KLINGENSMITH'S TESTIMONY LEE DID IN THE HOLLOW SQUARE. AND, GENTLEMEN, IN REFERENCE TO THIS STATEMENT, I AM CONVINCED THAT YOU HAVE <sup>[11]</sup> COME TO SAME CONCLUSION THAT I HAVE, THAT KLINGENSMITH HAS</p> <p>ADDED ANOTHER STAIN, AND THAT OF PERJURY, TO HIS ALREADY BLACKENED SOUL.</p>	<p>DIDN'T YOU BELIEVE SMITH PERJURED HIS SOUL ADDED THE SIN OF PERJURY TO THAT OF MURDER AND ASSASSINATION. —[?] YOU CAN'T HELP IT GENTLEMEN.</p>	<p>DON'T YOU BELIEVE SMITH PERJURED HIS SOUL, AND ADDED THE SIN OF PERJURY TO THAT OF MURDERER AND ASSASSIN.</p>	
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**RT**

**RS**

**BT**

**PS**

	<p>IN ADDITION TO THAT SMITH GOES ON TO SAY THERE JOHN D. LEE WAS IN CHARGE OF THE TROOPS AS HE CALLS THEM. THESE ARE CALLED TROOPS BY PROSECUTION AND BY SMITH ALL THE WAY THROUGH [space] MEN OF WASHINGTON WERE DENOMINATED SOUTHERN SOLDIERS. THEY WERE FROM DIXIE, MEN FROM CEDAR WENT THERE</p> <p>SOLDIERS ALL CALLED SOLDIERS <sup>[[14]]</sup> NOW THE HOLLOW SQUARE WAS IN THEORY OF PROSECUTION IS THIS, IT WAS FORMED THERE &lt;IT WAS FROM THE AUTHORITY&gt; AND JOHN D.</p>	<p>IN ADDITION TO THAT SMITH GOES ON TO SAY, THAT THERE JOHN D. LEE WAS IN CHARGE OF THE TROOPS, AS HE CALLS THEM. THESE ARE CALLED TROOPS BY THE PROSECUTION, AND BY SMITH ALL THE WAY THROUGH. THE MEN FROM WASHINGTON WERE DENOMINATED SOUTHERN SOLDIERS. THEY WERE FROM DIXIE. THE MEN FROM CEDAR THAT WENT THERE WERE CALLED SOLDIERS; AND ALL WERE CALLED SOLDIERS. NOW, THE HOLLOW SQUARE WAS, AND THE THEORY OF THE PROSECUTION IS THIS: IT WAS FROM THE AUTHORITY OF JOHN D.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>KLINGENSMITH STICKS, WITH GREAT TENACITY, TO THE STATEMENT, THAT JOHN D. LEE WAS IN COMMAND OF THE TROOPS AT THE MEADOWS,BUT, IF HE WAS IN COMMAND,</p>	<p>LEE WAS THERE IN COMMAND OF THE SOLDIERS, LAID THE PLAN AGREED UPON IT, TO DECOY THESE EMIGRANTS FROM THEIR STRONGHOLD <del>AND TO</del> ASSASSINATE THEM AND MASSACRE THEM UPON <del>THAT</del> MEADOW</p> <p>THERE IS ANOTHER THEORY THAT IS THEIR THEORY. NOW WE SEE THE HOLLOW SQUARE WAS NOT FORMED BUT</p> <p>K SMITH STICKS TO IT WITH GREAT TENACITY,</p> <p>THAT JOHN D. LEE WAS IN COMMAND.</p> <p>THAT JOHN D. LEE WAS IN COMMAND OF THE SOLDIERS</p>	<p>LEE, AND HE WAS THERE IN <del>COMMON WITH</del> <b>COMMAND OF</b> THE SOLDIERS, LAID THE <del>L</del>PLAN AND AGREED UPON IT TO <del>F</del>DECOY THESE EMIGRANTS FROM THEIR STRONGHOLD, AND TO ASSASSINATE THEM AND MASSACRE THEM UPON THE MOUNTAIN MEADOWS. THAT IS THEIR THEORY, BUT THERE IS ANOTHER THEORY.</p> <p>NOW, WE SEE THE HOLLOW SQUARE WAS NOT FORMED. <sup>[8]</sup></p> <p>KLINGENSMITH STICKS TO IT WITH GREAT TENACITY</p> <p>THAT JOHN D. LEE WAS IN COMMAND,</p> <p>THAT JOHN D. LEE WAS IN COMMAND OF THE SOLDIERS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WHAT ORDERS DID HE ISSUE ? WHAT COMMAND DID HE GIVE ?</p> <p>WHEN KLINGENSMITH WAS ASKED ON CROSS-EXAMINATION WHAT ORDER OR COMMAND WAS GIVEN BY LEE, HE ANSWERED “I NEVER HEARD OR KNEW OF LEE UPON THE FIELD AT THE MOUNTAIN MEADOWS OR AT ANY OTHER PLACE, ISSUING AN ORDER OR GIVING A COMMAND” NOW, THAT BEING SO, COULD LEE HAVE BEEN IN COMMAND, AS STATED BY KLINGENSMITH, IN HIS DIRECT EXAMINATION ? THE WHOLE, GENTLE</p>	<p>THAT WERE THERE <sup>Q</sup>WHAT COMMAND DID HE ISSUE, WHAT COMMAND DID HE GIVE, I NEVER HEARD UPON FIELD WHILE THERE</p> <p>ISSUE A WORD TO THE SOLDIERS. ALTHOUGH HE WAS IN COMMAND THERE, AND CONSIDERED SO BY SMITH ON THE NEXT BREATH HE SAYS, “I NEVER HEARD A COMMAND OR A WORD FROM JOHN D. LEE</p> <p>COULD HE HAVE BEEN IN COMMAND? SO MUCH FOR THE THEORY OF SMITH AND THE PROSECUTION, IT SHOWS THAT IT WAS GOTTEN</p>	<p>THAT WAS THERE. WHAT COMMAND DID HE ISSUE? WHAT COMMAND DID HE GIVE? “I NEVER HEARD UPON THE FIELD WHILE THERE THAT HE ISSUED AN ORDER TO THE SOLDIERS.” ALTHOUGH HE WAS IN COMMAND THERE AND IT WAS SAID BY SMITH IN THE NEXT BREATH: HE SAYS, “I NEVER HEARD A COMMAND OR AN ORDER FROM JOHN D. LEE.”</p> <p>COULD HE HAVE BEEN IN COMMAND? SO MUCH FOR THE THEORY OF SMITH AND THE PROSECUTION. IT SHOWS THAT IT WAS GOTTEN</p>	
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**RT**

**RS**

**BT**

**PS**

<p>MEN, IS A BASELESS FABRICATION AND CONSPIRACY, AS BEFORE STATED, GOTTEN UP FOR THE PURPOSE OF CONVICING THE DEFENDANT AT THE BAR AND TO SAVE THE WORTHLESS NECK OF THAT VILLAIN KLINGENSMITH. KLINGENSMITH NEXT GOES ON TO STATE THAT WHILE THE TROOPS WERE STANDING IN THE HOLLOW SQUARE</p>	<p>UP BY THIS MAN SMITH AND THIS MAN WHITE THROUGH AND BY BILL HICKMAN, AND IT IS FABRICATION AND A FICTION GENTLEMEN, <i>FOR TO SAY[?]</i> <i>AND/HE[?]</i> SAVE THE NECK OF THAT FELON. &lt;¶&gt; A LITTLE FURTHER. WE SEE SMITH HAS LIED 3 TIMES, WHERE HE GETS TO THE HOLLOW SQUARE, HE SAYS THEN THAT THE COMMAND WAS GIVEN, ALTHOUGH JOHN D. LEE DID NOT GIVE ANY COMMAND, ALTHOUGH HE IS IN COMMAND, IT WILL TELL YOU HIS STATEMENT</p> <p>THERE IS ABOUT AS CONSISTENT</p>	<p>UP BY THIS MAN SMITH AND THIS MAN WHITE THROUGH AND BY BILL HICKMAN; AND IT IS A FABRICATION AND A FICTION, GENTLEMEN, FOR TO SAVE THE NECK OF THAT VILLAIN. A LITTLE FURTHER. WE SEE SMITH HAS LIED THREE TIMES AND WHERE HE GETS TO THE HOLLOW SQUARE, HE SAYS THEN THA TTHE COMMAND WAS GIVEN, ALTHOUGH <b>JOH.N</b> D. LEE DIDN'T GIVE ANY COMMAND, ALTHOUGH HE IS <b>NOT</b> IN COMMAND. STILL THEY TELL YOU THAT HIS STATEMENTS ARE TR<del>U</del>E, BUT THEY ARE ABOUT AS CONSISTENT <del>WHEN HE SAYS</del></p>	
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**RT**

**RS**

**BT**

**PS**

<p>THE COMMAND WAS GIVEN TO MARCH AND THEY THEN MARCHED IN DOUBLE FILE FROM THE CAMP TO THE VICINITY OF THE CORRALL AT THE MEADOWS, UNDER THE COMMAND OF HIGBEE.</p>	<p>AS MR. BRADSHAW WAS WHEN HE SWORE SON TOLD HIM SOMETHING BUT HE WAS NOT ≤SURE≥ I SEEN/HIS SOM[?], IT IS ONLY IN KEEPING WITH THAT THEORY. TO CARRY THIS OUT, SMITH SWORE COMMAND WAS THERE GIVEN TO MARCH TO THE MEADOWS, OR DOWN &lt;THERE&gt; TO THE EMIGRANTS, HIGBEE TOOK COMMAND AND THEN HE SAYS, HIGBEE THEN TOOK COMMAND. THEY MARCHED TO THE MEADOWS IN DOUBLE FILE ≤AND THAT IS≥ ANOTHER MISTAKE BILL HICKMAN MADE THESE MAY LOOK LIKE SMALL THINGS TO YOU GENTLEMEN OF THE JURY, BUT</p>	<p>AS MR. BRADSHAW WHEN HE SAYS,, THAT HE SEEN SOMETHING, BUT HE WASN'T SURE WHAT I SEEN."2 IT IS ONLY IN KEEPING WITH THAT THEORY. TO CARRY THIS OUT, SMITH SAYS COMMAND WAS GIVEN TO MARCH TO THE MEADOWS OR DOWN THERE TO THE EMIGRANTS. HIGBEE TOOK COMMAND. THEN HE SAYS, "HIGBEE TOOK COMMAND." THEY MARCHED TO THE MEADOWS IN DOUBLE FILE. AND THAT IS ANOTHER MISTAKE BILL HICKMAN MADE . THESE MAY LOOK LIKE SMAPLL THINGS TO YOU GENTLEMEN OF THEJURY; BUT</p>	
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**RT**

**RS**

**BT**

**PS**

<p>JOEL WHITE SAYS THAT THEY MARCHED IN SINGLE FILE,</p>	<p>WHEN A MAN COMES UPON STAND TESTIFIES TO THINGS BEING SO AND SO, WHEN THEY DID NOT EXIST IT IS WEIGHTY FOR YOU TO WEIGH, GENTLEMEN,  <i>UNDERTAKE</i>[?]  CONSIDERATION HIS STATEMENT AS A WHOLE. WHITE SAYS IT WAS  “SINGLE FILE”. THE IDEA WAS BETWEEN BILL HICKMAN WHITEMAN<sup>477</sup> AND KLINGENSMITH, THAT THE SOLDIERS WERE MARCHED FROM CAMP DOWN TO THE EMIGRANTS CORRAL, OR VICINITY OF IT; BUT KLINGENSMITH AND OLD BILL HICKMAN HAD FORGOTTEN TO</p>	<p>WHEN A MAN COMES UPON THE STAND TO TESTIFY TO THINGS BEING SO AND SO, WHEN THEY DIDN'T EXIST, IT IS WEIGHTY EVIDENCE FOR YOU TO WEIGH, GENTLEMEN,; AND YOU SHOULD TAKE INTO CONSIDERATIO N HIS STATEMENTS AS A WHOLE. WHITE SAYS IT WAS  SINGLE FILE. THE IDEA WAS BETWEEN BILL HICKMAN AND WHITE AND KLINGENSMITH, THAT THE SOLDIERS WERE MARCHED FROM THEIR CAMP DOWN TO THE EMIGRANT'S CORRAL OR THE VICINITY OFIT; BUT KLINGENSMITH AND OLD BILL HICKMAN HAD FORGOT EN TO</p>	
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477. Rogerson occasionally refers to Joel White as “Whiteman”.

**RT**

**RS**

**BT**

**PS**

<p>BUT POLLOCK, YOUNG AND PEIRCE,</p> <p>ALL AGREE, IN THEIR TESTIMONY, THAT NO ORDERS WERE GIVEN TO MARCH, NO ORDER WAS GIVEN TO FALL INTO LINE AND THAT ALL THOSE WHO DID GO WENT OF THEIR OWN ACCORD AND WITHOUT ANY REGARD TO ORDER. THESE DISCREPANCIES</p>	<p><i>INFORM[?]</i> ≪INTIMATE≫ WHITE, THAT SMITH HAD SWORN THEY HAD GONE <sup>[[15]]</sup> GONE THERE IN DOUBLE FILE THIS IS LIE NUMBER OF 4.<sup>478</sup> K SMITH SAYS HIMSELF, WHICH IS CONTRADICTED BY POLLOCK YOUNG AND THIS YOUNG MAN, THAT TOOK THE BOTS, THEY ≪ALL≫ SAY THEY HEARD NO ORDERS FOR MARCHING DOWN THERE, AND THERE WAS NO HOLLOW SQUARE THEY WERE NOT GIVEN TO FALL INTO LINE BECAUSE THEY WENT DOWN THERE PROMISCUOUSL Y. [<i>space</i>]</p>	<p>INTIMATE TO WHITE THAT SMITH HAS SWORN THAT THEY HAD GONE THERE IN DOUBLE FILE. NOW, THIS IS LIE NUMBER FOUR. KLINGENSMITH SAYS HIMSELF, <sup>[9]</sup> BUT HE IS CONTRADICTED BY POLLOCK, YOUNG AND THIS YOUNG MAN THAT TOOK THE BOTS: — THEY ALL SAY THEY HEARD NO ORDERS FOR MARCHING DOWN THERE, AND THERE WAS NO HOLLOW SQUARE. THEY WERE NOT GIVEN ANY COMMAND TO FALL INTO LINE, BECAUSE THEY WENT DOWN THERE PROMISCUOUSL Y.</p>	
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478. Above the line in longhand: **LIE NO 4.**

**RT**

**RS**

**BT**

**PS**

MAY SEEM UNIMPORTANT, BUT WHEN A WITNESS COMES UPON THE STAND AND CONFESSES HIMSELF TO BE AN ACCOMPLICE IN ONE OF THE MOST DAMNABLE CRIMES EVER RECORDED IN THE ANNALS OF A CIVILIZED COMMUNITY, AND WHO HAS A THEORY WHICH HE ATTEMPTS TO CARRY OUT IN HIS TESTIMONY, <sup>[12]</sup> IT IS OF THE GREATEST IMPORTANCE THAT HE SHOULD BE CORROBORATED BY CREDIBLE WITNESSES, BEFORE HIS EVIDENCE IS ENTITLED TO CONSIDERATION, AND NOT CONTRADICTED, ESPECIALLY BY THE WITNESSES FOR THE PROSECUTION, AS THIS MAN HAS BEEN.  
NEXT  
KLINGENSMITH

THEN

THEN



**RT**

**RS**

**BT**

**PS**

<p>STATES IN HIS CROSS-EXAMINATION, THAT ONE BATEMAN WAS SENT TO THE EMIGRANTS CAMP WITH A FLAG OF TRUCE, FOR THE AVOWED PURPOSE OF CARRYING OUT</p> <p>THE “TREATY” HE DID NOT STATE WHAT TREATY HE HAD REFERENCE TO, BUT LEAVES IT, SO FAR AS THE EMIGRANTS IS CONCERNED TO BE CONJECTURED, BUT WE SAY THAT THE TREATY REFERRED TO WAS THIS: IT WAS A TREATY PREVIOUSLY AGREED UPON BETWEEN THE CITIZENS AND THE INDIANS THE CONDITIONS OF WHICH WERE, THAT IF THE EMIGRANTS WOULD AGREE TO DELIVER THEIR HORSES AND CATTLE TO</p>	<p>WE <i>GO</i> <i>DOWN</i>[?] WITH FLAG OF TRUCE WITH BATEMAN SAYS <math>\Leftarrow</math>SMITH<math>\Rightarrow</math> SAYS HE TOOK THE</p> <p>FLAG OF TRUCE DOWN HIMSELF, HAD A TALK TO CARRY OUT</p> <p>TREATY ENTERED INTO AND MADE BY BATEMAN WITH THE EMIGRANTS;</p>	<p>THEY <del>D</del>GO DOWN WITH A FLAG OF TRUCE WITH BATEMAN. SMITH SAYS, HE TOOK THE</p> <p>FLAG OF TRUCE HIMSELF, AND HAD A TALK WITH THE EMIGRANTS, AND THAT A TREATY WAS ENTERED INTO AND MADE BY BATEMAN WITH THE EMIGRANTS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THE INDIANS, THAT THEY AGREED TO CEASE THEIR HOSTILITIES AND LET THE EMIGRANTS PASS WITHOUT FURTHER MOLESTATION. AFTER THE RETURN OF BATEMAN LEE WAS SENT TO THE EMIGRANTS CORRALL TO CARRY INTO EFFECT, IN GOOD FAITH, THIS TREATY. THE INDIANS, AS HE SUPPOSED, HAD PREVIOUSLY WITHDRAWN. LEE TOOK TWO WAGONS WITH HIM FOR THE PURPOSE OF CARRYING THE CHILDREN, THE SICK AND THOSE WHO HAD BEEN WOUNDED IN THE SEVERAL ATTACKS MADE BY THE INDIANS, TO CEDAR CITY. KLINGENSMITH STATES THAT LEE , WITH THE TWO WAGONS, WENT IMMEDIATELY IN</p>	<p>LEE WAS SENT DOWN <del>TO THE</del> EMIGRANTS <del>CAME OUT</del> CAMP,</p> <p>&lt;AND THAT THE&gt; WAGONS <del>CAME OUT IN</del> IN FRONT WITH THE CHILDREN IN, THE WOMEN AND MEN FOLLOWING. LEE IN ADVANCE.</p>	<p>LEE WAS SENT DOWNTO THE EMIGRANT'S CAMP,</p> <p>AND THAT THE WAGONS CAME OUT IN FROMNT WITH THE CHILDREN IN THE WAGONS AND WOMEN FOLLOWING — LEE IN ADVANCE.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>FRONT OF THE EMIGRANTS, AS THEY CAME OUT OF THE CORRALL; THEY WOMEN NEXT TO THE WAGONS, AND THE MEN IN THE REAR. ON CROSS-EXAMINATION HE STATED THAT THE EMIGRANTS FOLLOWED EXACTLY IN THE TRACK OF THE WAGONS.</p> <p>BUT WHITE SAYS HE SHOWS BY HIS DIAGRAM ALSO,</p> <p>THAT THE EMIGRANTS</p>	<p>THE QUESTION WAS ASKED IN REGARD TO MEN AND WOMEN FOLLOWING IN THE LINE OF THE WAGONS. SMITH SAYS THEY FOLLOWED EXACTLY IN THE TRACK OF THE WAGONS. [space] SMITH TESTIFIED THAT THE MEN AND WOMEN FOLLOWED EXACTLY IN TRACK OF WAGONS. WHITE MADE THIS DIAGRAM GENTLEMEN SHOWING WAGONS STRUCK THE ROAD CONSIDERABLE DISTANCE <math>\leq</math>BELOW<math>\geq</math> EMIGRANTS TESTIMONY SHOWS EMIGRANTS</p>	<p>THE QUESTION WAS ASKED IN REGARD TO THE MEN AND WOMEN FOLLOWING IN THELINE OF THE WAGONS. SMITH SAYS THEYFOLLOWED EXACTLY IN THE TRACK OFTHE WAGONS. SMITH STESTIFIED THAT THE MEN AND THE WOMEN FOLLOWED EXACTLY IN THE TRAVCK OF THE WAGONS. WHITE MADE THIS DIAGRAM,GENTLEMEN, SHOWING THAT THE WAGON STRUCK THE ROAD A <del>Ø</del>CONSIDERABLE DISTANCE BELOW THE EMIGRANTS; BUT THE TESTIMONY SHOWS THE EMIGRANTS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>DID NOT FOLLOW IN THEIR TRACK, BUT CAME OUT ON THE ROAD A</p> <p>CONSIDERABLE DISTANCE WEST FROM</p> <p>WHERE THE WAGONS FIRST STRUCK IT.</p> <p>KLINGENSMITH SAYS ALSO THAT <sup>[13]</sup> THE SOLDIERS AND</p> <p>EMIGRANTS MARCHED</p> <p>IN PARALLEL LINES FOR TWO HUNDRED YARDS,</p> <p>AND AT THE WORD "HALT" WHICH HAD BEEN PREVIOUSLY AGREED UPON AS THE</p>	<p>DID NOT. THAT THE EMIGRANTS STRUCK THE ROAD NEAR WHERE THESE SOLDIERS WERE STATIONED, SOME CONSIDERABLE DISTANCE FURTHER SOUTH ON THE —[?] &lt;MAIN&gt; ROAD THAN WHERE THE WAGONS STRUCK THE ROAD NOW SMITH &lt;SAYS&gt; THIS, THAT WHEN THEY CAME UP THERE, THE EMIGRANTS MARCHED BY OUR CAMP PASSED SOLDIERS, AND THEY MARCHED PROBABLY FROM ONE TO TWO HUNDRED YARDS IN PARALLEL LINES, AND THAT THE WORD HALT &lt;WAS GIVEN&gt; WHICH WAS PREVIOUSLY AGREED UPON, &lt;AND THE&gt;</p>	<p><del>DIDN'T; BUT THAT THE EMIGRANTS</del> STRUCH THE ROAD NEAR WHERE THESE SOLDIERS WERE STATIONED SOME CONSIDERABLE DISTANCE FARTHER DOUTH ON THE MAIN ROAD THAN WHERE THE WAGONS STRUCK THE ROAD. NOW, SMITH SAYS THIS, THAT WHEN THEY CAME UP THERE THE EMIFGRANTS MARCHED BY OUR CAMP AND PASSED THE SOLDIERS; AND THEY MARCHED PROBABLY FROM ONE TO TWO HUNDRED YARDS IN PARALELL LINES;, AND THAT THERE THE WORD "HALT" WAS GIVEN, WHICH WAS PREVIOUSLY AGREED UPON AND THAT THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>COMMAND OF "FIRE"</p> <p>THE "TROOPS"</p> <p>CARRYING THEIR GUNS ACROSS THEIR LEFT ARMS</p> <p>HALTED, AND</p> <p>ALL OF THEM FIRED; WITH EXCEPTION OF THIS STATEMENT THERE IS NOT ANOTHER WORD OF TESTIMONY TO SHOW</p> <p>THAT ANY WHITE MAN FIRED A SINGLE SHOT, EXCEPT THE ONE FIRED BY KLINGENSMITH HIMSELF.</p>	<p>EMIGRANTS ALL HALTED, SOLDIERS HALTED AND PARTICULARLY DESCRIBING THEY WERE CARRYING THEIR GUNS UPON THE LEFT ARMS, &lt;AND THAT THEN THE&gt; SOLDIERS HALTED AND FIRED, AND HE SAYS ALL FIRED. WITH THE EXCEPTION OF THAT TESTIMONY THERE IS NOT A WORD OR SYLLABLE GENTLEMEN BEFORE YOU; THERE IS NO INTIMATION FROM ANY OTHER WITNESS, &lt;THAT&gt; THERE WAS SINGLE WHITE MAN &lt;THERE&gt; FIRED, THAT IS, WITH EXCEPTION OF</p> <p>K SMITH HIMSELF. HE WAS A/THE[?] MURDERER AND ASSASSIN&lt;!&gt;</p>	<p>EMIGRANTS ALL HALTED, AND THE SOLDIERS HALTED; AND PARTICULARLY DESCRIBED THAT THEY WERE CARRYING THEIR GUNS UPON THEIR LEFT ARMS; AND THAT THEN THE SOLDIERS HALTED AND FIRED, AND HE SAYS ALL FIRED. WITH THE EXCEPTION OF THAT TESTIMONY THERE IS NOT A WORD OR A SYLLABLE, GENTLEMEN, BEFORE YOU . THERE IS NO INTIMATION FROM ANY OTHER WITNESS THA T THERE WAS A SINGLE WHITE MAN FIRED; THAT IS WITH THE EXCEPTION OF</p> <p>KLINGENSMITH HIMSELF. HE WAS THE MURDEREDR [10] AND ASSASSIN. HHS</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WHITE DENIES HAVING FIRED S A SHOT HIMSELF, AND SAYS THAT HE DID NOT SEE ANY OTHER WHITE MAN FIRE. KLINGENSMITH NOT ONLY ACKNOWLEDGES HAVING FIRED HIS GUN BUT STATES THAT HE WAS PARTICULAR TO TAKE AIM AND WAS SURE HE BROUGHT DOWN HIS MAN. NOTWITHSTANDI NH THIS CONVFESSION, AND NOTWITHSTANDI NG THE FACT THAT HE STANDS BEFORE YOU A PROVEN PERJURER,HE WANTED TO MAKE YOU BELIEVE THAT HE WAS AN EXEMPLARY MAN,AND THAT HIS BOSOM WAS ALL BUT</p>	<p>HE IS ONE PERJURED FELON UPON THIS STAND SAYS ≤THAT≥ HE FIRED.</p>	<p><b>HE IS THE</b> PERJURED VILLAIN UPON THIS STAND THAT SAYS THAT HE FIRED;</p>	
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**RT**

**RS**

**BT**

**PS**

<p>OVERFLOWING WITH THE MILK OF HUMAN KINDNESS.</p> <p>KLINGENSMITH STATES THAT HE MARCHED AT THE HEAD OF THE COLUMN WHICH WAS MARCHING PARALLEL WITH THE EMIGRANTS. WHITE SAYS HE HIMSELF WAS AT THE REAR END OF THE COLUMN, AND THAT THE COLUMN DID NOT MARCH PARALLEL WITH BUT IN THE REAR OF THE EMIGRANTS,</p>	<p>AND WITH ALL THE MILK OF HUMAN KINDNESS HE WOULD MAKE YOU BELIEVE HE HAS IN HIS BOSOM; HE SAYS FIRED AT HIS MAN K SMITH WAS AT THE HEAD OF THE COLUMN,</p> <p>WHITE WAS AT THE OTHER END OF THE COLUMN AS THEY MARCHED ALONG. <sup>[[16]]</sup> WHITE SAYS</p> <p>&lt;THE&gt; EMIGRANTS HAD MARCHED ALONG THE ROAD [space] HEAD OF COLUMN UNTIL THE SOLDIERS BECAME OPPOSITE TO THE REAR MEN OF THE RANKS OF THE</p>	<p>AND WITH ALL THE MILK OF HUMAN KINDNESS , HE WOULD MAKE YOU BELIEVE HE HAS IN HIS BOSOM, HE SAYS HE FIRED AT HIS MAN. KLINGENSMITH WAS AT THE HEAD OF THE COLUMN.</p> <p>WHITE WAS AT THE OTHER END OFTHE COLUMNS AS THEY MARCHED ALONG. WHITE SAYS</p> <p>THE EMIGRANTS HAD MARCHED ALONG THE ROAD;, AND AT THE HEAD OF THE COLUMN TILL THE SOLDIERS BECAME OPPOSITE TO THE REAR MEN IN THE RANKS OF THE</p>	
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**RT**

**RS**

**BT**

**PS**

	<p>EMIGRANTS.  NOW THERE IS  LIE NUMBER  5<sup>479</sup> &lt;OF THIS  MAN  K SMITH&gt;.  BECAUSE BILL  HICKMAN AND  SMITH AND  WHITE HAD  OVERLOOKED,  THAT POINT</p> <p>SMITH SWORE,  THEY WERE  MARCHED IN  PARALLEL  COLUMNS  OPPOSITE EACH  OTHER. WHITE  SAID HEAD  OF  SOLDIERS WAS  OPPOSITE TO  REAR MEN  OF THE  EMIGRANTS  WHEN THE  FIRING TOOK  PLACE WHITE  SAYS HE DID  NOT FIRE, AND  DID NOT SAY  THERE  WAS SINGLE  MAN OF THESE  WHITE MEN  &lt;THERE&gt; THAT  DID FIRE, BUT  SMITH SAYS HE  DID WHITE  SAYS, &lt;WHEN</p>	<p>EMIGRANTS.  NOW, THERE IS  LIE NUMBER  FIVE OF THIS  MAN  KLINGENSMITH.  BECAUSE BILL  HICKMAN AND  SMITH HAD</p> <p>OVERLOOKED  THAT POINT,  AND <del>THAT</del>  SMITH SWORE  THEY WERE  MARCHED IN  PARALLEL  COLUMNS  OPPOSITE EACH  OTHER. WHITE  SAID THE HEAD  OF THE  SOLDIERS WAS  OPPOSITE TO  THE REAR MEN  OF THE  EMIGRANTS  WHEN THE  FIRING TOOK  PLACE. WHITE  SAYS HE DIDN'T  FIRE; HE  DIDN'T SAY  THAT THERE  WAS A SINGLE  MAN OF THESE  WHITE MEN  THERE THAT  DID FIRE; BUT  SMITH SAYS HE  DID. WHITE  SAYS WHEN</p>	
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479. Longhand above the shorthand: **LIE NUMBER 5.**



**RT**

**RS**

**BT**

**PS**

<p>AND THAT AT THE FIRST FIRE THE INDIANS CAME RUSHING DOWN IN</p> <p>OVERWHELMING NUMBERS UPON THE EMIGRANTS, SLAUGHTERING MEN, WOMEN AND CHILDREN. NOW, IS IT NOT A REASONABLE INFERENCE, AND IN FACT THE ONLY RATIONAL CONCLUSION THAT WE CAN ARRIVE AT THAT THE INDIANS WERE THE ONLY ONES WHO FIRED, WITH THE EXCEPTION OF KLINGENSMITH. ANOTHER</p> <p>THEORY OF THE PROSECUTION IS THAT; LEE INCITED THE INDIANS TO MASSACRE THE EMIGRANTS. THERE IS NOT ONE WORD OR SYLLABLE OF TESTIMONY TO</p>	<p>THE&gt; VOLLEY WAS FIRED,</p> <p>INDIANS RUSHED IN UPON EMIGRANTS BY HUNDREDS OVER WHELMING NUMBERS IS NOT THAT THE TESTIMONY OF MR. WHITE.</p> <p>ANOTHER THING THE THEORY OF THE GENTLEMEN HERE IS MR. LEE INCITED &lt;THE&gt; INDIANS.</p> <p>THERE IS NOT &lt;A&gt; WORD, &lt;NOT A&gt; SYLLABLE</p>	<p>THE VOLLEY WAS FIRED THAT THE INDIANS RUSHED IN UPON THE EMIGRANTS BY NUMBERS, OVERWHELMING NUMBERS. IS NOT THAT THE TESTIMONY OF MR. WHITE.</p> <p>ANOTHER THING: THE THEORY OF THE GENTLEMEN HERE IS THAT MR. LEE INCITED THE INDIANS.</p> <p>THERE ISN'T A WORD, THERE ISN'T A SYLLABLE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>SUBSTANTIATE THIS, EXCEPT WHAT KLINGENSMITH SAYS, WHICH IS. <sup>[14]</sup> THAT HAIGHTOR SOMEONE ELSE TOLD HIM SUCH IS THE CASE.</p> <p>WHILE AT THE MOUNTAIN MEADOWS</p> <p>SMITH SAYS THAT THE INDIANS WERE UNDER THE CONTROL OF CARL SHIRTS, AND THAT HIGBEE HAD COMMAND OF THE TROOPS. SETTING ASIDE THE TESTIMONY OF KLINGENSMITH,</p>	<p>IN ALL WHAT SMITH SAYS, THAT HAIGHT OR SOMEONE ELSE TOLD HIM <del>≠A</del> THING <del>≠IN</del> REGARD TO THAT WHEN WE GET INDIANS UPON THE FIELD OF BATTLE THERE FIELD OF DISASTER AND SLAUGHTER, EVEN SMITH HIMSELF COULD NOT PLACE HIM IN CONTROL OF INDIANS AND ALSO IN COMMAND OF WHITES, HE THERE PLACES INDIANS UNDER COMMAND OF CARL SHIRTS</p>	<p>EXCEPT ≠ WHAT MR. SMITH SAYS THAT ≠HAIGHT OR SOMEONE TOLD HIM A THING IN REGARD TO THAT.. WHEN WE GOT IN COMPANY UPON THE FIELD OF BATTE THERE UPON THE FIELD OF THE DESASTER AND SLAUGHTER, EVEN <del>SMIGH</del> SMITH HIMSELF COULD NOT PLACE LEE IN CONTROL OF THE INDIANS, AND ALSO NOT IN COMMAND OF THE WHITEÐS; BUT IN EVERY PLACE THE INDIANS WERE <del>≠</del>UNDER THE COMMAND OF CARL SHIRTZS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WHICH I THINK I HAVE CONCLUSIVELY SHOWN AS UNWORTHY OF YOUR SERIOUS CONSIDERATION, WHAT TESTIMONY HAVE WE LEFT THAT REFLECTS UPON JOHN D. LEE ? “NONE WHATEVER”</p> <p>WHEN HIS STATEMENT IS STRIPPED OF ALL THE INCONSISTENCIES AND</p> <p>CONTRADICTIONS WITH WHICH IT IS CLOTHED, THERE IS</p>	<p>WHAT CONNECTION HAS MR. LEE HAD WITH THIS TRANSACTION; THROWING ASIDE TESTIMONY OF THIS MAN SMITH, AND I SAY GENTLEMEN &lt;OF THE JURY&gt; WHEN YOU STRIP IT OF ALL THESE CONTRADICTIONS WHICH HAS GONE TO MAKE UP HIS TALE OF HORROR OR EVEN OF GUILT, I SAY WHEN YOU STRIP OFF FROM ALL THIS —[?] STUFF, WE HAVE NOTHING LEFT BUT AN UNFORMED AND LIMBLESS SKELETON. BY THESE CONTRADICTIONS</p> <p>WE HAVE</p>	<p>WHAT CONNECTION HAS MR. LEE TO DO WITH THIS TRANSACTION THROWING ASIDE THE TESTIMONY OF THIS MAN SMITH? AND I SAY, GENTLEMEN OF THE JURY, WHEN YOU STRIP IT OF ALL THESE CONTRADICTIONS WHICH HAS GONE TO MAKE UP THIS TALE OF HORRORS OR EVEN OF GUILT;, I SAY WHEN YOU STRIP <b>IT OF</b> <del>IF FROM</del> ALL OF THIS STUFF WE HAVE NOTHING LEFT BUT AN UNFORMED AND LIMBLESS SKELETON. <sup>[11]</sup> BY THESE CONTRADICTIONS</p> <p>WE HAVE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>NOTHING LEFT BUT A DEFORMED, LIMBLESS AND HIDEOUS SKELETON.</p> <p>GENTLEMEN OF THE JURY, LOOK AT THIS MAN KLINGENSMITH,</p> <p>AND SAY IF VILLAIN, COWARD, MURDERER AND ASSASSIN ARE NOT WRITTEN UPON EVERY LINE AND LINEAMENT OF HIS FEATURES ? NOT EVEN OLD AGE, AND THE SOOTHING INFLUENCES OF TIME WITH ITS GENTLE TREAD, CAN STAMP OUT</p>	<p>NOTHING LEFT BUT A DEFORMED AND HIDEOUS SKELETON HERE. I ATTEMPT GENTLEMEN OF THE JURY TO LOOK AT THIS MAN SMITH, IN CONNECTION WITH ALL OF THESE CONTRADICTIONS OF HIS OWN TESTIMONY AND THAT OF HIS ACCOMPLICES, I ASK YOU LOOK AT HIM AND SEE IF<sup>480</sup> A FELON COWARD MURDERER ASSASSIN IS NOT WRITTEN UPON EVERY LINE AND LINEAMENT OF HIS FEATURES. NOT EVEN OLD AGE OR THE SOOTHING INFLUENCE OF TIME, THAT ARE GENTLY TREATED, CAN STAMP OUT</p>	<p>NOTHING LEFT BUT A DEFORMED AND HEADLESS SKELETON HERE. I SHALL ATTEMPT, GENTLEMEN OF THE JURY, TO LOCATE THIS MAN SMITH, IN CONNECTION WITH ALL OF THESE CONTRADICTIONS OF HIS OWN TESTIMONY, AND<del>THAT</del> ALL HIS EXAMPLES, I ASK YOU TO LOOK AT HIM AND SEE IF VILLAIN, COWARD, MURDERER AND ASSASSIN ISN'T WRITTEN UPON EVERY LINE, AND LINEAMENT OF HIS FEATURES. NOT EVEN OLD AGE OR THE SOOTHING INFLUENCE OF TIME <del>THAT ARE</del> GENTLY <del>TREATED</del> CAN STAMP OUT</p>	
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480. Word later crossed out.

**RT**

**RS**

**BT**

**PS**

<p>OR EFFACE THE DAMNING MARKS OF CRIME UPON HIS VILLAINOUS COUNTENANCE. HE STANDS BEFORE YOU AND PROVEN TO BE A PERJURER AND CONFESSED ASSASSIN. HE STANDS BEFORE YOU, GENTLEME N, A CONFESSED MORAL COWARD,</p> <p>AND GOD HATES A COWARD. KLINGENSMITH CONFESSED HIMSELF A COWARD AND HATED OF GOD, AND WHEN HE SAID HE DID NOT HAVE THE MORAL COURAGE AND MANHOOD TO RAISE HIS VOICE TO STAY THE HAND OF THE SLAYER, BUT</p> <p>AS STATED BY HIMSELF, VOLUNTARILY</p>	<p>IT, OR DEFACE THE DAMNING LINES OF CRIME UPON HIS COUNTENANCE HE STANDS BEFORE YOU A CONFESSED PERJURER, &lt;A&gt; CONFESSED ASSASSIN [space] HE STANDS BEFORE YOU GENTLEMEN A MORAL COWARD AND A CONFESSED MURDER <sup>[[17]]</sup> GOD HATES A COWARD. THIS MAN SMITH CONFESSING HIMSELF TO BE A COWARD, WHEN THAT DID NOT HAVE</p> <p>HARDIHOOD TO RAISE HIS FINGER AND CHECK THIS DAMNABLE OUTRAGE BUT POSSIBLY TAKING HIS OWN STATEMENT FOR IT, &lt;THAT HE&gt;</p>	<p>OR DEFACE THE DAMNING LINES OF CRIME UPON HIS COUNTENANCE. HE STANDS BEFORE YOU A CONFESSED PERJURER, A CONFESSED ASSASSIN. HE STANDS BEFORE YOU, GENTLEMEN, AS MR. CAREY CONFESSES A MURDERER. GOD HATES A COWARD. THIS MAN SMITH CONFESSES HIMSELF TO BE A COWARD, WHEN HE SAYS THAT HE DIDN'T HAVE THE</p> <p>HARDIHOOD TO RAISE HIS FINGER AND CHECK THIS DAMNABLE OUTRAGE . BUT IS IT POSSIBLE TAKING HIS OWN STATEMENT FOR IT, THAT HE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>IMBRUED HIS HANDS IN THE BLOOD OF OVER ONE HUNDRED INNOCENT VICTIMS,MEN,W OMEN AND CHILDREN. I ASK YOU, GENTLEMEN, HOW MUCH CREDIT IS DUE TO THE STATEMENT OF SUCH A MAN. DO YOU, FOR A MOMENT, BELIEVE ANY OF HIS EVIDENCE ? DO YOU NOT FEEL MORALLY CERTAIN, IN YOUR OWN MINDS, THAT HE HAS LIED ? VILLAIN AND PERJURER,</p>	<p>IMBRUED HIS HANDS WITH THE BLOOD OF THESE INNOCENT MEN WOMEN CHILDREN I ASK YOU GENTLEMEN, HOW MUCH CREDIT IS DUE TO  SUCH A MAN. DO YOU BELIEVE HIM FOR A MOMENT; DON'T YOU KNOW HE LIED. GENTLEMEN YOU KNOW THAT HE IS NOT WORTHY OF YOUR ATTENTION FOR A MOMENT DON'T YOU KNOW IF YOU HAD TO MEET HIM IN DARK ALLEY, WOULD NOT HIS VERY <del>INDEX[?]</del> SOUL TO HIS SOUL = IF YOU HAD ANY MONEY ON YOU ◀PREPARE TO▶</p>	<p>IMBRUED HIS HANDS WITH THE BLOOD OF THESE INNOCENT  WOMEN AND CHILDREN. I ASK OF YOU, GENTLEMEN OF THE JURY, <b>WHAT IS DUE</b> <del>TO</del>  SUCH A MAN-? DO YOU BELIEVE HIM FOR A MOMENT? DON'T YOU KNOW THAT HE LIED? <del>SDON'T</del> DON'T YOU KNOW THAT HE ISN'T WORTHY OF YOUR ATTENTION FOR A MOMENT? DON'T YOU KNOW IF YOU HAD TO MEET HIM <del>HIM</del> IN A DARK ALLEY, WOULD NOT HIS <del>VERY</del> THE VERY INDEX TO HIS SOUL TELL YOU IF <del>HE</del> <b>YOU</b> HAD ANY MONEY WITH YOU TO PREPARE TO</p>	
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**RT**

**RS**

**BT**

**PS**

<p>ARE TWO TOO DISTINCTLY STAMPED UPON HIS EVERY FEATURE FOR YOU TO BELIEVE HIM.</p> <p>DID HE IMPRESS ONE OF YOU THAT HE WAS</p> <p>TELLING THE TRUTH ? <sup>[15]</sup> NO, GENTLEMEN, WHEN YOU COME TO LOOK OVER</p> <p>HIS TESTIMONY AND WEIGH IT COOLLY AND DISPASSIONATELY IN YOUR MINDS,CAN YOU SAY IT IS TRUE ? I CANNOT THINK IT POSSIBLE</p>	<p>PROTECT YOURSELF AGAINST THE FELON AND ASSASSINS WOULD BE PREPARED FOR HIM. IT IS TOO PROMINENT GENTLEMEN IN HIS FEATURES. DID HE IMPRESS SINGLE MAN OF YOU ON THIS JURY, THAT HE WAS TELLING THE TRUTH AS HE TOLD IT. DID HE MAKE AN IMPRESSION UPON ONE OF YOU THAT HE WAS FOR A MOMENT TELLING THE TRUTH. NO GENTLEMEN, WHEN YOU COME TO LOOK AT THIS THIS <i>DISPOSED</i>[?] OUTLAW, AND READ THIS TESTIMONY,</p> <p>IS IT POSSIBLE</p>	<p>PROTECT YOURSELF AGAINST A FELLON , AN ASSASSIN AND BE PREPARED FOR HIM. IT IS TOO PROMINENT, GENTLEMEN, IN HIS FEATURES. DID HE IMPRESS A SINGLE MAN OF YOU ON THIS JURY THAT HE WAS TELLING YOU THE TRUTH;? HAS HE TOLD IT ? DID HE MAKE AN IMPRESSION UPON ONE OF YOU THAT HE WAS FOR A MOMENT TELLING THRE TRUTH? <del>A</del> NO, GENTLEMEN , WHEN YOU COME TO LOOK AT THIS <del>THIS</del> BASE OUTLAW AND READ THIS TESTIMONY,</p> <p>IS IT POSSIB LE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THAT YOU CAN. CAN YOU SAY FROM THE EVIDENCE THAT JOHN D. LEE IS GUILTY OF THE OFFENSE WITH WHICH HE IS CHARGED ? DON'T IT RAISE A DOUBT IN YOUR MINDS, AS TO HIS GUILT ?</p> <p>TEST THIS EVIDENCE IN THE CRUCIBLE OF REASON, AND I AM SURE YOU WILL ARRIVE AT THE SAME CONCLUSION <del>TO</del> THAT I HAVE ABOUT KLINGENSMITH, WHO, ON THE WITNESS STAND, ACKNOWLEDGE D HIMSELF TO BE A COLD BLOODED</p>	<p>THAT YOU CAN FOR ONE MOMENT SAY AND THAT JOHN D. LEE WAS GUILTY OF THIS OFFENSE.</p> <p>DON'T IT RAISE A DOUBT IN YOUR MINDS. DON'T IT EVEN RAISE ONE DOUBT AS TO WHETHER ONE WORD THIS MAN SMITH HAS TOLD WAS TRUE. TEST THIS EVIDENCE GENTLEMEN IN THE CRUCIBLE OF REASON AND I THINK THAT YOU WILL ARRIVE AT THE SAME CONCLUSION ≤THAT≥ I HAVE,  ≤THAT≥ THIS MAN WHO GETS UPON STAND HERE, AND ACKNOWLEDGE S HIMSELF TO BE A FELON, ASSASSIN AND COLD BLOODED</p>	<p>THAT YOU CAN FOR A MOMENT SAY THAT JOHN D . LEE WAS GUILTY OF THIS OFFENSE?</p> <p>DON 'T IT RQ RAISE A DOUBT IN YOUR MINDS? DIDN'T IT EVEN RAISE A DOUBT AS TO WHETHER ONE WORD THIS MAN SMITH HAS TOLD <sup>[12]</sup> YOU WAS TRUE-? TEST THIS EVIDENCE, GENTLEMEN, IN THE CRUCIBLE OF REASON, AND I THINK THAT YOU WILL ARRIVE AT THE SAME CO NCLUSION THAT I HAVE;</p> <p>THAT THIS MAN WHO GOES UPON THE SAT AND HERE, AND ACKNOWLEDGE S HIMSELF TO BE A FELON AND COLD BLOODED</p>	
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**RT**

**RS**

**BT**

**PS**

<p>MURDERER AND ASSASSIN, † AND THAT HE IS UNWORTHY OF BELIEF. ASIDE FROM THE CIRCUMSTANCES ENUMERATED, AND WHICH TEND TO SHOW THAT KLINGENSMITH IS UNWORTHY OF BELIEF, THERE IS ANOTHER CIRCUMSTANCE OF A MORE CONVINCING NATURE, AND WHICH I ONLY NEED TO CALL YOUR ATTENTION TO IN ORDER TO IMPRESS ON YOUR MINDS THAT HE IS UTTERLY UNWORTHY OF BELIEF, EXCEPT THAT HE IS CORROBORATED BY CREDIBLE WITNESSES. I NOW ALLUDE TO THE PRICE AT WHICH HE IS BOUGHT AND BROUGHT TO TESTIFY. SUPPOSE A WITNESS SHOULD</p>	<p>MURDERER HE HAS DONE</p> <p>I WILL NOW CALL YOUR ATTENTION TO ANOTHER POINT IN THIS &lt;CASE AND THAT IS&gt; THIS,</p> <p>SUPPOSE THAT THIS MAN &lt;K&gt; SMITH</p>	<p>MURDERER</p> <p>THAT HE IS NOT WORTHY OF BELIEF.</p> <p>I WILL NOW CALL YOUR ATTENTION TO ANOTHER PARAGRAPH IN THIS CASE AND THAT IT'S THIS:</p> <p>SUPPOSE THAT THIS MAN KLINGENSMITH</p>	
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**RT**

**RS**

**BT**

**PS**

<p>COME ON THE STAND AND TESTIFY <del>THAT</del> AND AFTER HAVING DETAILED A STORY WHICH WAS CALCULATED TO FASTEN THE GUILT OF A HORRIBLE CRIME UPON THE PRISONER AT THE BAR,</p> <p>HE SHOULD AFTERWARDS CONFESS</p> <p>THAT THE PROSECUTION</p> <p>HAD PAID HIM TEN THOUSAND DOLLARS FOR HIS TESTIMONY,</p>	<p>WAS TO COME UPON STAND HERE AND ACKNOWLEDGE TO YOU THAT HE HAD BEEN GUILTY AND HAD BEEN ONE OF THE PERPETRATORS OR THE ACTORS IN THE MOUNTAIN MEADOWS MASSACRE. SUPPOSE ON CROSS-EXAMINATION HE WAS TO TELL YOU GENTLEMEN OF THE JURY THE PROSECUTION AND THAT ATTORNEYS FOR {THE}<sup>1</sup> PEOPLE HERE, HAD GIVEN HIM TEN THOUSAND DOLLARS TO COME IN HERE AND DETAIL <del>THE</del> PLAN CIRCUMSTANCES OF THIS HORRID BUTCHERY;</p> <p>WOULD YOU BELIEVE HIM FOR A MOMENT.</p>	<p>WAS PUT UPON THE STAND HERE AND ACKNOWLEDGE D TO YOU THAT HE HAD BEEN GUILTY OR <del>HAD HAVE</del> BEEN ONE OF THE PERPETRATORS OR AN ACTOR IN THE MOUNTAIN MEADOWS MASSACRE. SUPPOSE ON CROSS-EXAMINATION, HE WAS TO TELL YOU, GENTLEMEN OF THE JURY, THAT THE PROSECUTION, OR THAT THE ATTORNEYS HERE FOR THE PEOPLE HAD GIVEN HIM TEN THOUSAND DOLLARS TO COME IN HERE AND DETAIL THE PLAN</p> <p>OF THIS HORRID BUTCHERY,</p> <p>WOULD YOU BELIEVE HIM FOR A MOMENT?</p>	
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**RT**

**RS**

**BT**

**PS**

<p>GENTLEMEN, COULD YOU CONVICT THE PRISONER UPON SUCH PURCHASED TESTIMONY.</p> <p>WOULD YOUR CONSCIENCES ALLOW YOU TO PRONOUNCE HIM GUILTY WITHOUT COMPUNCTION ? IF YOU WOULD THEN YOUR SOULS WOULD BE EQUALLY STAINED WITH THE FOUL BLOT WHICH THE BLOOD MONEY FASTENED UPON THE PERJURERS SOUL.</p>	<p>WHAT WOULD YOU SAY IN REGARD SUCH A MAN AS THAT. WOULD NOT YOU SAY HE IS NOT WORTHY OF BELIEF [space] <i>ALTHOUGH</i> <i>YOUNG[?] MAN I</i> WOULD NOT COUTENANCE, NEITHER WILL I AS A JUROR GIVE MY VOTE TO <del>MIND</del> <i>≡FIND≡</i> A MAN GUILTY WHERE THE ENTIRE TESTIMONY HANGS UPON THE TESTIMONY OF THAT MAN.</p>	<p>WHAT WOULD YOU SAY IN REGARD TO SUCH A MAN AS THAT? WOUNLDN'T YOU SAY, HE IS NOT WORTHY OF BELIEF? ALTHOUGH AN OLD MAN, I WOULD NOT COUTENANCE HIM, NEITHER <del>WILL</del> <b>WOULD I</b> AS A JUROR GIVE MY VOTE TO FIND A MAN GUILTY WHERE THE ENTIRE EVIDENCE HANGS UPON THE TESTIOMONY OF THAT MAN;</p>	
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**RT**

**RS**

**BT**

**PS**

<p>NOW, YOU MAY ASK ME IF I MEAN TO ASSERT THAT KLINGENSMITH HAS SOLD HIS TESTIMONY</p> <p>FOR TEN THOUSAND DOLLARS. I WILL PROVE TO YOU</p>	<p>OF THE CHAIN OF EVIDENCE AGAINST JOHN D. LEE, THERE IS NOT ANY OTHER TESTIMONY <sup>[[18]]</sup> THAT CONNECTS HIM WITH THE AFFAIR WHAT WOULD YOU SAY GENTLEMEN, WOULD YOU BELIEVE HIM [space] THAT IS THE TEN THOUSAND DOLLAR QUESTION I HAVE SUGGESTED WERE TEN THOUSAND DOLLARS AT STAKE COMPARED WITH A MAN'S OWN LIFE. HE HAS PAID <del>FOR</del> HIS FREEDOM HERE, HE HAS PURCHASED IT AT A PRICE HE HAS SOLD SOME LIES TO PROSECUTION HERE FOR TEN THOUSAND DOLLARS</p>	<p>FOR ACCORDING TO ALL THE CHAIN OF EVIDENCE AGAINST JOHN D. LEE THERE IS NOT ANY CHAIN OF TESTIMONY THAT CONNECTS HIM WITH THE AFFAIR. WHAT WOULD YOU SAY, GENTLEMEN,? WOULD YOU BELIEVE HIM? THAT IS THE TEN THOUSAND DOLLAR QUESTION. I HAVE SUGGESTED THE WORD TEN THOUSAND DOLLARS AT STAKE WITH A MAN'S OWN LIFE. SMITH HAS PAID FOR HIS FREEDOM HERE. HE HAS PURCHASED IT AT A PRICE. HE HAS SOLD MR. LEE TO THE PROSECUTION HERE FOR TEN THOUSAND DOLLARS.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>[16] THAT HE SOLD IT FOR A SUM EQUAL TO MORE THAN TWICE THAT AMOUNT. HE HAS SOLD IT TO SAVE HIS OWN LIFE. KLINGENSMITH HAS PURCHASED HIS OWN LIFE BY GIVING THE TESTIMONY WHICH YOU HAVE HEARD. DO YOU SUPPOSE THAT KLINGENSMITH WOULD THRUST HIS NECK INTO THE HALTER AND EXPIRE UPON THE GALLOWS FOR THE SUM OF TEN THOUSAND DOLLARS ? NO! WORTHLESS AS HIS LIFE IS, STILL TO HIM IT IS WORTH MORE THAN MONEY. HE HAS NOT THAT LOVE FOR HIS FELLOW MAN THAT WOULD MAKE HIM TAKE MONEY THAT OTHERS MIGHT ENJOY, WHILE HE WOULD HAVE TO UNDERGO THE TORMENTS THAT</p>	<p>NOW, GENTLEMEN OF THE JURY, FOR TO SAVE HIS OWN VILE AND CORRUPT SELF.</p> <p>IS NOT HIS LIFE TO HIM, DO YOU SUPPOSE WITH ALL THE DAMNING CRIMES THAT STAIN HIS CHARACTER =</p> <p>DO YOU NOT SUPPOSE IT IS WORTH MORE TO HIM THAN ANY TEN THOUSAND DOLLARS WOULD BE</p> <p>[space]</p>	<p>NO, GENTLEMEN OF THE JURY, IF TO SAVE HIS OWN VILE AND CORRUPT LIFE</p> <p>— ISN'T HIS LIFE TO HIM — DO YOU SUPPOSE THAT WITH ALL THE DAMNING <del>Y</del>CRIMES THAT STAIN HIS CHARADCTER —</p> <p>DO YOU NKOT SUPPOSE IT IS WORTH MORE TO HIM THAN ANY TEN THOUSAND DOLLARS WOULD BE?</p>	
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**RT**

**RS**

**BT**

**PS**

<p>RETRIBUTIVE JUSTICE WOULD BE SURE TO METE OUT TO HIM FOR HIS CRIMES, BEYOND A FELON'S GRAVE.</p>	<p>YET A MAN THAT COULD BE BOUGHT FOR TEN THOUSAND DOLLARS AND COME INTO COURT MAKE STATEMENT OF THIS CHARACTER, THE CIVILIZED WORLD WOULD BRAND HIM = NOT ONLY AS TRAITOR VILLAIN MURDERER BUT A PURCHASED VILLAIN. HOW MUCH MORE HAS BEEN <del>PAID</del> FOR[?] FOR[?] THIS TESTIMONY GENTLEMEN <del>THAN</del> IN THE CASE I HAVE SUGGESTED HOW MUCH MORE DO YOU SUPPOSE HIS MAN K SMITH VALUES WHAT HE GOT FOR</p>	<p>AND YET A MAN THAT COULD BE BOUGHT FOR TEN THOUSAND DOLLARS AND COME IN THIS COURT AND MAKE STATEMENTS OF THIS CHARACTER, THE CIVILIZED WORLD WOULD BRAND <sup>[13]</sup> HIM NOT ONLY AS A TRATOR<del>E</del>, VILLAIN AMND MURDERER, BUT AS A PURCHASED VI LLAIN. MORE HAS BEEN PAID, FOR THIS TESTIMONY, GENTLEMEN, THAN IN THE CASE I HAVE SUGGESTED TOYOU. MORE! DO YOU SUPPOSE KLINGENSMITH VALUES WHAT HE FOT FOR</p>	
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**RT**

**RS**

**BT**

**PS**

<p>GENTLEMEN, HE HAS SOLD HIS TESTIMONY  FOR A PURPOSE, AND THAT PURPOSE IS TO  CONVICT JOHN D. LEE.</p>	<p>THIS TESTIMONY IN RETURN FOR THIS STATEMENT. DO YOU SUPPOSE EVEN K SMITH WOULD HAVE TAKEN MONEY FOR WHAT HE HAS SOLD HIMSELF HERE FOR. HE COMES HERE BEFORE YOU SOLD OUT TO THE PROSECUTION. HE SELLS HIMSELF TO THE PROSECUTION FOR A PURPOSE. THAT PURPOSE IS  CONVICTION OF JOHN D. LEE. I DO NOT HOLD SMITH AS WORTH THOUSAND DOLLARS MYSELF NOR 500; BUT THAT IS THE MAN THAT STANDS BEFORE YOU TODAY GENTLEMEN ON WHOSE TESTIMONY THEY ASK YOU</p>	<p>THIS TESTIMONY IN RETURN FOR THESE STATEMENTS? DO YOU SUPPOSE EVEN KLINGENSMITH WOULDHAVE TAKEN MONEY FOR WHATHE HAS SOLD HIMSELF FOR. HE COMES HERE BEFORE YOU, SOLD OUT TO THE PROSECUTION. HE SELLS HIMSELF TO THE PROSECUTION FOR A PURPOSE. THAT PURPOSE <del>IF</del> IS FOR THE CONVICTION OF JOHN D. LEE. IDO NOT HOLD SMITH IS WORTH A THOUSAND DOLLARS, MYSELF, NOT FIVE HUNDRED; BUT THAT IS THE MAN THAT STANDS BEFORE YOU TO DAY GENTLEMEN, UPON WHOSE TESTIMONY THEY ASK YOU</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THROW ASIDE THE TESTIMONY OF HIS ACCUSER,</p> <p>AND WHAT EVIDENCE HAVE YOU LEFT UPON WHICH LEE CAN BE CONVICTED. NOT A TITTLE.</p> <p>GENTLEMEN,</p> <p>JUDGE SUTHERLAND HAS ALREADY FULLY STATED TO YOU OUR THEORY, WHICH IS THE ONLY REASONABLE ONE, OF THE CONSUMMATION OF THE UNFORTUNATE AND HORRIBLE MASSACRE, AND I SHALL NOT</p>	<p>CONVICT JOHN D. LEE [space] I SAY STRIKE THIS THE TESTIMONY THAT HAS BEEN PURCHASED IN THIS WAY FOR THIS JURY. WHERE IS ≪THERE A≫ SYLLABLE OF TESTIMONY TO CONNECT JOHN D. LEE WITH THE AFFAIR. [space] WHERE IS</p> <p>SYLLABLE OF TESTIMONY; OR A SCINTILLA OF TESTIMONY. NONE GENTLEMEN, NOT A WORD ~ NOT A SYLLABLE. [space] JUDGE SUTHERLAND HAS GONE OVER THEORY OF THIS CASE AND ILLUSTRATED IT TO YOU.</p>	<p>TO CONVICT JOHN D. LEE. I SAY STRIKE OUT THIS TESTIMONY THAT HAS BEEN PURCHASED IN THIS WAY FOR THIS JURY. WHERE IS THERE A SYLLABLE OF TESTIMONY TO CONNECT JOHN D. LEE WITH THE A FFAIR:? WHERE IS THERE A SYLLABLE OF TESTIMONY, OR A SCINTILLA OF TESTIMONY;? NONE, GENTLEMEN, NOT A WORD, NOT A SYLLABLE. JUSDGE SUTHERLAND HAS GONE OVER THE THEORY OF THIS CASE AND ILLUSTRATED IT TO YOU.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>REPEAT IT. THERE IS ANOTHER POINT IN THE EVIDENCE WHICH I DO NOT WANT YOU TO OVERLOOK.</p> <p>THE WITNESS BRADSHAW STATES THAT AFTER THE INDIANS HAD ATTACKED THE EMIGRANTS AT MOUNTAIN MEADOWS, HE HEARD HAIGHT SAY, IN HIS SERMON AT CEDAR CITY</p>	<p>THERE IS ONE POINT</p> <p>HE FORGOT AND OVERLOOKED; THAT IS THIS, THE CIRCUMSTANCES THAT SHOW THE PART JOHN D. LEE TOOK IN THIS JUDGE SUTHERLAND TOLD US TESTIMONY WAS RULED OUT ON THIS, THIS COMES FROM THEIR WITNESSES SUPPOSE IT TO BE TRUE THEY ARE BOUND BY IT WHETHER TRUE OR FALSE AT THE TIME THIS OLD MAN BRADSHAW WAS SENT OFF TO GO <math>\Leftarrow</math>TO THE<math>\Rightarrow</math> MEADOWS, SHORTLY AFTER THAT I BELIEVE IT WAS, WHERE HAIGHT WAS PREACHING IN PUBLIC MEETING, HE</p>	<p>THERE IS ONE PONT</p> <p>HE FORGOT AND OVER, - LOOKED. THAT IS THIS: THE CIRCUMSTANCES THAT SHOW THE PART THAT JOHN D. LEE TOOK IN THIS. JUDGE SUTHERLAND TOLD US THE TESTIMONY WAS RULED OUT ON THIS. THIS COMES FROM <del>OTHER</del> THEIR WITNESSES. SUPPOSE IT TO BE TRUE. THEY ARE BOUND BY IT WHETHER TRUE OR FALSE. AT THE TIME THIS OLD MAN BRADSHAW WAS SENT FOR TO GO THERE TO THE MOUNTAIN MEADOWS, SHORTLY AFTER THAT I BELIEVE IT WAS, WHEN HAIGHT WAS PREACHING IN THE PUBLIC MEETING, HE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>THAT “IF IT HAD NOT BEEN FOR THAT OLD FOOL INTERFERING, THE DESTRUCTION OF THE EMIGRANTS WOULD HAVE BEEN ACCOMPLISHED BY THE INDIANS BEFORE NOW. NOW, GENTLEMEN, WHAT “OLD FOOL” COULD BE ALLUDED TO ?</p> <p>IT COULD NOT BE KLINGENSMITH, HE NEVER CLAIMED TO HAVE ANYTHING TO DO WITH THE INDIANS, AND HE SAYS THE ONLY MEN WHO HAD ANYTHING TO DO WITH THEM WERE LEE AND CARL SHIRTS, HAIGHT MUST, THEREFORE, HAVE MEANT JOHN D. LEE,</p>	<p>SAID “IF IT HAD NOT BEEN FOR THAT <sup>[[19]]</sup> OLD FOOL,</p> <p>THE MASSACRE OF THE EMIGRANTS WOULD HAVE BEEN COMPLETE</p> <p>WHAT OLD FOOL I HAVE REFERENCE TO. HE DID NOT —[?] MEAN SMITH</p> <p>HE MUST HAVE MEANT JOHN D. LEE HE COULD HAVE MEANT NO ONE ELSE ACCORDING TO SMITH’S STATEMENT,</p>	<p>SAID “IF IT HAD NOT BEEN FOR THAT OLD FOOL,</p> <p>THE MASSACRE OF THE EMIGRANTS WOULD HAVE BEEN ACCOMPLISHED.”</p> <p>WHAT OLD FOOL DIDHE HAVE REFERENCE TO?. HE DIDN’T MEAN SMITH .</p> <p>HE MUST HAVE MEANT JOHN D. LEE. HE COULD NOT HAVE MEANT ANYTHING ELSE ACCORDING TO SMITH’S STATEMANT,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>HE COULD NOT MEAN CARL SHIRTS, BECAUSE HE WAS A VERY YOUNG MAN, A</p>	<p>BECAUSE SMITH SAYS THAT JOHN D. LEE WAS TO GO THERE AND INCITE {THE}<sup>i</sup> INDIANS TO COMMIT THIS OUTRAGE JOHN D. LEE WAS THE OLD MAN THEY HAD REFERENCE TO AT THE TIME OLD FOOL, YOU CAN DRAW NO OTHER CONCLUSION FROM THIS</p> <p>TESTIMONY I SAY IT IS A SIMPLE MATTER IT SHOWS JOHN D. LEE WAS NOT TAKING THE PARTS SMITH WOULD HAVE YOU BELIEVE HE TOOK THAT LITTLE CIRCUMSTANCE, “IF IT HAD NOT BEEN FOR THAT OLD FOOL” IT COULD NOT HAVE MEANT CARL SHIRTS, ≤BECAUSE≥ AT THE TIME HE WAS A</p>	<p>BECAU E SMITH SAYS THAT JOHN D. LEE WAS TO GO <sup>[14]</sup> THERE AND INCITE THE INDIANS TO COMMIT THIS OUTRAGE. JOHN D. LEE WAS THE OLD MAN THEY HAD REFERENCE TO AT THE TIME. THE “OLD FOOL”; AND YOU CAN DRAW NO OTHER CONCLUSION. AND FROM THIS <del>TESTIMONY,</del> <b>ONLY</b> <b>TESTIMONY I</b> SAWY IT IS A SIMPLE MATTER. IT SHOWS JOHN D. LEE WAS NOT TAKING THE PART SMITH. WOULD HAVE YOU BELIEVE HE TOOK. THAT LITTLE CIRCUMSTQANC E, “IF IT HADN’T BEEN FOR THAT OLD FOOL”. IT COULD NOT HAVE MEANT CARL SHIRTZS, BECAUSE AT THE TIME HE WAS A</p>	
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**RT**

**RS**

**BT**

**PS**

<p>MERE <sup>177</sup> BOY, AND COULD NOT THEREFORE BE CALLED AN OLD FOOL.</p> <p>I HARDLY DEEM IT NECESSARY TO CALL YOUR ATTENTION TO THE TESTIMONY OF</p> <p>MRS. HOGE,</p> <p>ONE OF THE WITNESSES FOR THE PROSECUTION. THE PROSECUTING ATTORNEYS ARE EVIDENTLY</p>	<p>BOY; IT CAN ONLY BE THE OLD ≤FOOL≥ JOHN D. LEE THE &lt;15 PAGE&gt; DEFENDANT HERE. THE PROSECUTION ASK YOU FIND GUILTY UPON THIS TESTIMONY.</p> <p>BUT THE GENTLEMAN ≤OF THE PROSECUTION&gt; SAYS ANOTHER THING HE BRINGS THIS OLD LADY HOGE A NAME SAKE OF MINE. SHE HAS LIVED LONGER THAN I HAVE BUT CAN'T HEAR QUITE AS WELL AS I CAN.</p>	<p>BOY. IT CAN ONLY BE THE OLD FOOL, JOHN D . LEE, THE DEFENDANT, WHOM THE PROSECUTION ASK YOU TO FIND GUILTY UPON THIS TESTIMONY.</p> <p>BUT THE GENTLEMAN OF THE PROSECUTION SAYS ANOTHER THING. HE BRINGSS THIS OLD LADY HOAG, A NAME SAKE OF MINE. SHE HAS LOIVED LONGER THAN I HAVE BUT CAN'T HEAR QUITE AS WELL AS I CAN.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>ASHAMED TO REFER TO HER, AND IF THEY ATTACHED THE LEAST IMPORTANCE TO HER EVIDENCE IT OF COURSE WOULD DESTROY THEIR WHOLE THEORY OF THE CASE. SHE HAD LEARNED HER STORY LIKE A PARROT, AND AS SHE WAS DEAF AS A POST NEITHER THE ATTORNEYS NOR THE COURT COULD STOP HER UNTIL SHE HAD RATTLED OFF ALL SHE HAD TO TELL. SHE SAID AMONG OTHER THINGS, THAT LEE SAID THAT A MAN WAS SENT WITH A MESSAGE FROM CEDAR CITY TO SALT LAKE CITY, AND HE RETURNED WITH AN ANSWER TO HARMONY ON THE THIRD DAY, THUS TRAVELING FIVE HUNDRED AND FIFTY MILES IN LESS TIME THAN</p>	<p>SHE WAS JUST LIKE A PARROT</p>	<p>SHE WAS JUST LIKE A PARAOT,</p>	
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**RT**

**RS**

**BT**

**PS**

THREE DAYS  
AND TWO  
NIGHTS. WE DID  
NOT DEEM IT  
NECESSARY TO  
CROSS-EXAMINE  
HER, BECAUSE  
THERE WAS NOT  
A PERSON IN THE  
ROOM WHO  
BELIEVED A  
WORD OF WHAT  
SHE SAID.

GENTLEMEN  
THAT IS  
INTENDED TO  
CONNECT JOHN  
D. LEE  $\Leftarrow$ WITH  
THIS $\Rightarrow$  MATTER.  
SHE GOES ON  
 $\Leftarrow$ THE $\Rightarrow$  STAND  
AND TOLD YOU  
THAT JOHN D.  
LEE HELD  
MEETING  
SHE HELD UP  
HER HAND ETC.,  
FOLLOWING IT  
ON THROUGH.  
TAKING IT ALL  
TO  
BE TRUE, IT  
DESTROYS THE  
THEORY OF  
PROSECUTION  
AND MAKES  
SMITH THE LIAR  
FELON  
PERJURER AND  
ASSASSIN  
THAT HE IS.  
THE TWO  
THEORIES  
N[?]

GENTLEMAEN,  
~~SHE THAT~~ WAS  
INTENDED TO  
CONNECT JOHN  
D. LEE WITH  
THIS MATTER.  
SHE COMES ON  
THE STAND  
AND TOLD YOU  
THAT JOHN D.  
LEE HELD A  
MEETING, AND  
SHE HELD UP  
HER HAND &C.  
  
TAKING ALL  
HER STOREY TO  
BE TRUE, IT  
DESTROYS THE  
THEORY OF THE  
PROSECUTION  
AND MAKES  
SMITH A LIAR, A  
VILLAIN A  
PERJURER AND  
AN ASSASSIN  
THAT HE IS.  
THEIR  
THEORIES ARE  
NOT

**RT**

**RS**

**BT**

**PS**

	<p><i>INCONSISTENT</i>[?]          BUT IF IT WAS          NOT SO, SHE IS          ENTITLED TO          NO MORE          BELIEF THAN          THE OTHER          PARTIES, FOR          THE REASON          SHE SAYS SHE          HELD UP HER          HAND THERE          FOR          PURPOSE OF          HAVING THESE          EMIGRANTS          KILLED. WHEN          HE GOT BACK          THERE, SHE          SAYS HE  <i>FST</i>[?]          THESE GUNS</p> <p>SOLD OUT TO          INDIANS; —[?]          AIN'T SHE          MADE TO LIE IF          THAT WAS          TRUE, IT WOULD          DESTROY          THEORY OF          PROSECUTION          HERE, BECAUSE          THEY SAY          (AND THE          TESTIMONY          SHOWS)          THERE          WAS NO          INDIANS THERE.          WHAT WOULD          JOHN D. LEE GO          AND TELL          THAT FOR</p>	<p>CONSISTANT.          BUT IF IT WAS          NOT SO, SHE IS          ENTITLED TO          NO MORE          BELIEF THAN          THE OTHER          PARTIES, FOR          THE RREASON          SHE SAYS SHE          HELD UP HER          HAND THERE          FOR THE          PURPOSE OF          HAVING THESE          EMIGRANT'S          KILLED. WHEN          HE GOT BACK          THERE SHE          SAYS HE          FEASTED          THESE MEN          AND          SOLD OUT TO          THE INDIANS.          NOW, AINT SHE          MADE TO LIE? IF          THAT WAS          TRUE IT WOULD          DESTROY THE          THEORY OF THE          PROSECUTION          HERE, BECAUSE          THEY SAY —          AND THE          TESTIMONY          SHOWS—          THATTHERE          WAS NO          INDIANS THERE.          WHAT WOULD          JOHN D. LEE GO  <del>TO</del> <b>AND</b> TELL          THAT FOR?</p>	
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**RT**

**RS**

**BT**

**PS**

	<p>WOULD HE GO AND TELL IF MERELY THROUGH BOAST WOULD HE TELL IT BECAUSE IT TOOK PLACE WHAT IN THE NAME OF GOD COULD HAVE INDUCED HIM TO DO IT. WHY ≪BECAUSE≫ THAT OLD WOMAN HAS SUNG HER TALE FOR THE LAST 15 YEARS NO DOUBT BECAME ONE OF HER CHOICE<sup>481</sup> SHE HAS PROBABLY INCORPORATED INTO HER HYMN BOOK PROVE INCONSISTENT IN THE CASE WHATEVER [space] <sup>[[20]]</sup>482 DISJOINTED AND DISCONNECTED TALE OF HERS [space] ON HER TESTIMONY THE GENTLEMEN</p>	<p>WOULD HE GO AND TELL IT SIMPLY THROUGH BOAST? WOULD HE TEL, L IT BECAUSE IT TOOK PLACE? WHAT WOU IN THE NAME OF GOD COULD HAVE INDUCED HIM TO DO IT? WHY, BECAUSE THAT OLD WOMAN A HAS SUNG IT HALE AND  NO DOUBT IT HAS <sup>[15]</sup> BECOME ONE OF HER CHOICEST SONGS; AND PROBABLY INCORPORATED IN HER HYMN BOOK, AND IT HAS NO CONNECTION WHATEVER, THIS DISJOINTED AND DISCONNECTED <del>TALE</del> TALE OF HERS. ON HER TESTIMONY; THE GENTLEMEN;</p>	
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481. Word possibly crossed out.

482. At the top of the page: **HOGES ADDESS TO THE JURY.**



**RT**

**RS**

**BT**

**PS**

<p>NOW, GENTLEMEN, I HAVE GONE OVER THE TESTIMONY, OUTSIDE OF THAT WHICH I HAVE LAID BEFORE YOU IS THERE ANY EVIDENCE WHICH CONNECTS JOHN D. LEE IN ANY MANNER WHATEVER, WITH WHAT THE PROSECUTION CALL A CONSPIRACY, NOT A WORD,NOT AN IOTA, JOHN D. LEE IS NOT EVEN  MENTIONED AT ALL,</p>	<p>SAY YOU SHALL CONVICT JOHN D. LEE. NOW THEN  OUTSIDE OF TESTIMONY I HAVE GONE OVER WHAT TESTIMONY POINTS TO JOHN D. LEE.  NOT A WORD THERE IS NOT ANOTHER WITNESS THAT MENTIONS JOHN D. LEE'S NAME, WITH EXCEPTION OF BILL ROBERTS, NOT ONE. LOOK OVER THIS ARRAY OF WITNESSES, COME PUT YOUR FINGER UPON THE WITNESS THAT HAS SAID ANYTHING  CONNECT</p>	<p>SAY, YOU SHALL CONVICT JOHN D. LEE. NOW, THEN  OUTSIDE OF THE TESTIMONY I HAVE GONE OVER, WHAT TESTIMONY POINTS TO JOHN D. LEE?  IN A WORD THERE ISN'T ANY OTHER WITNESS THAT MENTIONS JOHN D. LEE'S NAME WITH THE EXCEPTION OF BILL ROBERTS, NOT ONE. LOOKK OVER THAI S ARRAY OF WITNESSES AND PUT YOUR FINGER UPON THE WITNESS THAT HAS SAID ANYTHING THAT CONNECTED</p>	
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**RT**

**RS**

**BT**

**PS**

<p>AND STILL UPON THE TESTIMONY OF KLINGENSMITH,</p> <p>CONTRADICTED BY WHITE AND OTHERS AND EVEN BY HIMSELF, THE PROSECUTION ASK YOU</p> <p>TO BRING IN A VERDICT OF <del>?</del> GUILTY. THEY WANT TO IMPRESS UPON YOU THAT IT IS NECESSARY TO MAKE AN EXAMPLE OF THE DEFENDANT, BECAUSE HE IS CHARGED WITH BEING CONCERNED IN THE "CONSPIRACY"</p>	<p>JOHN D. LEE DIRECTLY OR <i>EITHER</i>[?] INDIRECTLY NOT A SINGLE WITNESS. UPON THE TESTIMONY OF THIS MAN KLINGENSMITH THIS MAN WHITE WHOSE PROOF CONTRADICTS AND INCONSISTENT WITH EACH OTHER, AND SO AT VARIANCE AND CONTRADICTED BY OTHER TESTIMONY,</p> <p>THEY ASK YOU GENTLEMEN THOUGH TO BRING IN VERDICT AGAINST THIS OLD MAN WHY</p> <p>MAKE EXAMPLE OF HIM BECAUSE BLOODY OUTRAGE HAS BEEN PERPETRATED AT</p>	<p>JOHN D. LEE DIRECTLY <del>OFR</del></p> <p>INDIRECTLY. NOT A SINGLE WITNESS. UPON THE TESTIMONY OF THIS MAN KLINGENSMITH AND THIS MAN WHITE WHICH IS PROVED TO BE INCONSISTANT AND CONTRADICTS EACH OTHER AND SO AT VARIANCE AND CONTRADICTED BY OTHER TESTIMONY,</p> <p>THEY ASK YOU GENTLEMEN, FOR TO BRING <del>A V</del> IN A VERDICT AGAINST THIS OLD MAN. WHY?</p> <p>TO MAKE AN EXAMPLE OF <del>TH</del> HIM BECAUSE A BLOODY OUTRAGE HAS BEEN PERPERTATED AT THE</p>	
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**RT**

**RS**

**BT**

**PS**

<p>AS THEY CALL IT.</p> <p>WILL YOU DO IT, GENTLEMEN ?</p> <p>WILL YOU MAKE AN EXAMPLE OF THIS OLD MAN, AND SHED HIS BLOOD TO APPEASE PUBLIC CLAMOR ?</p> <p>WILL YOU VIOLATE YOUR OATHS, AND DYE YOUR HANDS IN INNOCENT BLOOD, BECAUSE THE PROSECUTING ATTORNEY SAYS THAT <sup>[18]</sup> THE "PUBLIC DEMAND IT ?"</p> <p>GENTLEMEN, NO! YOU WILL NOT VIOLATE YOUR OATHS AND HONOR, BUT</p>	<p>MOUNTAIN MEADOWS 17 OR 18 YEARS AGO WILL YOU DO IT</p> <p>WILL YOU MAKE AN EXAMPLE OF THIS OLD MAN AND SHED HIS BLOOD SIMPLY TO APPEASE PUBLIC CLAMOR PROSECUTION HAS CALLED DOWN UPON YOU TO DISPEL AND ASK YOU TO SATISFY THAT PUBLIC CLAMOR BY MAKING SACRIFICE OF YOUR OWN HONORS = YOUR VIOLATED OATHS AND SACRIFICE OLD JOHN D. LEE.</p>	<p>MOUNTAIN MEADOWS 17 OR 18 YEARS AGO. WILL YOU DO IT?</p> <p>WILL YOU MAKE AN EXAMPLE OF THIS OLD MAN AND SHED HIS BLOOD SIMPLY TO APPEASE PUBLIC CLAMOR? THE PROSECUTION HAS CALLED UPON YOU TO DISPELL THIS AND ASK YOU TO SATISFY THE PUBLIC CLAMOR BY MAKING SACRIFICE OF YOUR OWN HONORS, <del>YOUR</del> VIOLATED <b>YOUR</b> OATHS, AND SACRIFICE OLD JOHN D. LEE.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>WILL JUDGE ACCORDING TO THE LAW AND THE EVIDENCE.</p> <p>I NOW CALL YOUR SPECIAL ATTENTION TO</p> <p>THE LAW AS LAID DOWN BY HIS HONOR ON THE BENCH, IN HIS INSTRUCTIONS TO YOU, AND I WISH YOU TO CAREFULLY WEIGH IT, AND APPLY IT TO THE EVIDENCE IN THIS CASE. IT IS AS FOLLOWS: BEFORE YOU CAN FIND THE PRISONER</p>	<p>IF YOUR HONOR PLEASE I WISH READ THAT INSTRUCTION IN REGARD TO REASONABLE DOUBT.</p> <p>READ THE INSTRUCTIONS IN REGARD TO REASONABLE DOUBT ~ I WILL CALL YOUR ATTENTION TO THAT PARTICULAR INSTRUCTION. [space] THAT IS THE LAW GENTLEMEN AS THE COURT HAS GIVEN IT TO YOU.</p>	<p>IF YOUR HONOR PLEASE, I WISH TO READ THE INSTRUCTION TO THE JURY IN REGARD TO A REASONABLE DOUBT. (COUNSEL <b>HERE</b> READ FROM THE STATUTES IN REGARD TO REASONABLE DOUBT) I WILL CALL YOUR ATTENTION TO THAT PARTICULAR INSTRUCTION. THAT IS THE LAW, GENTLEMEN, AS THE COURT HAS GIVEN IT TO YOU.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>GUILTY YOU MUST FROM THE EVIDENCE BELIEVE, BEYOND A REASONABLE DOUBT, THAT THE PRISONER IS GUILTY, AND TAKING THE WHOLE EVIDENCE TOGETHER, IT MUST EXCLUDE EVERY OTHER HYPOTHESIS BUT THE GUILT OF THE PRISONER. A REASONABLE DOUBT IS ONLY SUCH AN ONE AS WOULD ARISE IN THE MINDS OF REASONABLE MEN, SUCH AS YOU ARE, WHO ARE SELECTED BECAUSE IT IS SUPPOSED, AND EXPECTED THAT YOU ARE REASONABLE MEN, AND COMPELLED TO TRY SUCH A QUESTION; PROOF, BEYOND A POSSIBILITY OF DOUBT, IS NOT REQUIRED, BECAUSE SUCH PROOF NEVER CAN BE MADE. IT IS NOT</p>			
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**RT**

**RS**

**BT**

**PS**

<p>NECESSARY TO SHOW TO YOU THAT IT IS NOT POSSIBLE THAT THE PRISONER IS INNOCENT, TO SHOW, BEYOND ALL POSSIBILITY OF DOUBT THAT HE IS GUILTY, BUT IT IS REQUIRED THAT THE PROSECUTION PRODUCE SUCH EVIDENCE, THAT WHEN YOU LOOK IT OVER, AS REASONABLE MEN, YOU DO NOT DOUBT THE PRISONERS GUILT. THAT THE EVIDENCE PRODUCES IN YOUR MIND AN ABIDING CONVICTION, TO A MORAL CERTAINTY, OF THE GUILT OF THE DEFENDANT. PROOF BEYOND A REASONABLE DOUBT IS SOMETHING MORE THAN THE PREPONDERANCE OF EVIDENCE. A PREPONDERANCE OF EVIDENCE WILL DO TO RENDER A</p>			
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**RT**

**RS**

**BT**

**PS**

<p>VERDICT IN A CIVIL CASE, BUT IT IS NOT SO IN CRIMINAL CASES. YOU MUST BE SATISFIED FROM THE EVIDENCE, BEYOND ANY FAIR REASONABLE DOUBT, OF THE DEFENDANTS GUILT. YOU MUST HAVE AN ABIDING CONVICTION TO A MORAL CERTAINTY, OF HIS GUILT, OR YOU SHOULD ACQUIT HIM, BUT <sup>[19]</sup> ABSOLUTE CERTAINTY OF GUILT IS NOT NECESSARY— MORAL CERTAINTY IS SUFFICIENT.</p> <p>I ASK YOU TO GIVE THE TESTIMONY DUE CONSIDERATION, IN CONNECTION WITH THE LAW AS GIVEN TO YOU BY THE COURT. WEIGH AND DIGEST IT</p>	<p>AFTER CAREFULLY CONSIDERING THIS TESTIMONY AND GIVING IT ALL DUE CONSIDERATION ,</p> <p>WEIGHING IT</p>	<p>AFTER CAREFULLY CONSIDERING THIS TESTIMONY AND AFTER GIVING IT ALL DUE CONSIDERATION,</p> <p>WEIGHING IT,</p>	
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**RT****RS****BT****PS**

<p>WELL, AND TRY IT IN THE CRUCIBLE OF REASON,</p> <p>AND THEN ASK YOURSELVES, IF YOU HAVE NOT A REASONABLE DOUBT OF THE DEFENDANTS GUILT AS CHARGED IN THE INDICTMENT; IF YOU HAVE NOT THEN YOU MUST FIND HIM GUILTY. I AM NO APOLOGIST</p> <p>FOR CRIME, ESPECIALLY SUCH A HORRIBLE CRIME AS THAT CHARGED IN THIS CASE. WE DO NOT COME BEFORE YOU TO DEFEND CRIME, BUT</p> <p>WE COME BEFORE YOU TO DEFEND THE RIGHTS OF JOHN D. LEE, THE ONLY DEFENDANT WHO IS ON TRIAL BEFORE YOU.</p>	<p>TRYING IT AS I BEFORE SAID IN THE CRUCIBLE OF REASON, <del>EN</del>DIGEST IT WELL, THEN UNDER THESE INSTRUCTIONS CAN YOU SAY</p> <p>YOU HAVE NO DOUBT BUT THAT THIS MAN JOHN D. LEE WAS GUILTY.</p> <p>I AM NO APOLOGIST GENTLEMEN FOR OFFENSES COMMITTED HERE 17 YEARS AGO.</p> <p>WE DO NOT COME BEFORE YOU WITH ANYTHING OF THAT KIND WE COME HERE SIMPLY DEFEND RIGHTS OF JOHN D. LEE THERE WAS NO ONE HERE BEFORE YOU BUT JOHN D.</p>	<p>TRYING IT, AS I SAID BEFORE IN THE CRUCIBLE OF REASON, DIGEST IT WELL; THEN UNDER THESE INSTRUCTIONS CAN YOU SAY</p> <p>YOU HAVE NO DOUBT BUT THAT THIS MAN, JOHND. LEE <sup>[16]</sup> WAS GUILTY.</p> <p>I AM NO APPOLOGIST, GENTLEMEN, FOR AN OFFENSE COMMITTED HERE 17 YEARS AGO.</p> <p>I <del>EN</del>WOULDNOT COME BEFO RE YOU W ITH ANYTHING <del>OF</del> OF THAT KIND. WE COME HERE SIMPLYTO DEFEND THE RIGHTS OF JOHN D. LEE AND THERE IS NO ONE HERE BEFORE YOU BUT JOHN D.</p>	
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**RT**

**RS**

**BT**

**PS**

<p>YOU HAVE NOTHING TO DO EXCEPT TO PERFORM YOUR SWORN DUTY, TO FIND HIM GUILTY OR NOT GUILTY ACCORDING TO THE EVIDENCE,</p> <p>FEELING CONFIDENT</p> <p>THAT YOU UNDERSTAND THE TESTIMONY, AND THAT YOU WILL BRING IN A VERDICT IN ACCORDANCE WITH THE</p>	<p>LEE TO BE TRIED. WHEN OTHERS ARE ARRESTED BROUGHT BEFORE YOU TODAY YOU HAVE NOTHING TO DO BUT PASS UPON THE CASE OF JOHN D. LEE.</p> <p>CAN YOU SAY YOU ARE CONVINCED TO A MORAL CERTAINTY JOHN D. LEE HAD ANYTHING TO DO WITH THIS CASE MORE THAN THE WAY JUDGE SUTHERLAND INTIMATED AND IF NOT FEELING CONFIDENT GENTLEMEN YOU UNDERSTAND THIS <del>TESTIMONY</del></p>	<p>LEE TO BE TRIED; THERE MAY BE IF THE OTHERS ARE ARRESTED AND BROUGHT BEFORE YOU. BUT TO DAY YOU HAVE NOTHING BUT TO PASS UPON THE CASE OF JOHN D. LEE .</p> <p>CAN YOU SAY YOU ARE CONVINCED TO A MORAL CERTAINTY THAT JOHN D. LEE HAD ANYTHING TO DO WITH THIS CASE MORE THAN THE <del>WAY</del> <b>WAY</b> JUDGE SUTHERLAND INTIMATED? I THINK NOT. AND FEELING CONFIDENT GENTLEMEN, THAT YOU UNDERSTAND THIS TESTIMONY,</p>	
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**RT**

**RS**

**BT**

**PS**

<p>EVIDENCE BEFORE YOU, WITHOUT FEAR OR FAVOR, I LEAVE THE CASE NOW WITH YOU.</p>	<p>MAKING THIS FURTHER REMARK [space] IN CLOSING I RECALL AN ANECDOTE ONCE TOLD OF AARON BURR WHO HAD BEEN IN HABIT OF GOING INTO CHURCH LATE</p> <p>MINISTER ONE <sup>[[21]]483</sup> DAY AS BURR WAS WALKING UP <del>THE</del> AISLE OF CHURCH PAUSED IN HIS SERMON SAID BURR WHEN THEY BOTH DIED AND HE WENT TO HEAVEN HE WOULD TURN STATE'S EVIDENCE AGAINST HIM BECAUSE OF HIS TARDINESS IN GOING TO CHURCH OF</p>	<p>MAKINGTHIS FURTHER REMARK IN CLOSING I RECOLLECT AN ANECDOTE, ONSE TOLD OF AARON BURR WHO HADBEEN IN THE HABIT OF GOING INTO CHURCH LATE, AND THE MISNISTER ONE DAY, AS BURR WAS WALKING UP THE AISLE OF THE CHURCH PAUSED IN HIS SERMON AND SAID, "BURR, WHEN THE APOSTLE DIED <del>HE</del> &amp; WENT TO HEAVEN HE WOULD TURN STATES EVIDENCE AGAINST <del>HIM</del> YOU BECAUSE OF <del>HIS</del> YOUR TARDINESS IN GOING TO CHURCH ." OF</p>	
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483. At the top of the page in ink: **PAGE 1 BISHOPS ADDRESS.**

**RT**

**RS**

**BT**

**PS**

	ALL THE WITNESSES IN THE WORLD THOSE WHO TURN STATE'S EVIDENCE ARE THE MEANEST —[?] AND THAT THEIR TESTIMONY IS NOT BELIEVED BY ANYBODY UNLESS CORROBORATED IN MATERIAL POINTS OF THEIR STATEMENT.	ALL THE WITNESSES IN THE WORLD <del>WHO</del> THOSE WHO <del>STURN</del> STATES EVIDENCE ARE THE MEANEST, AND THEIR TESTIMONY IS NOT BELIEVED BY ANYBODY UNLESS CORROBORATE D IN THE MATERIAL POINTS OF THEIR STATEMENT.	
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