

# THE LEE TRIAL.

## Opening Arguments of the Prosecution and Defense.

## Abuse of Witnesses by Sutherland, Hoge and Bishop.

## They Openly Confess the Weakness of Lee's Cause.

## Baskin Closes the Argument To-day.

## And the Case Goes to the Jury.

## No Hopes Entertained of Conviction.

Special to THE TRIBUNE.

BEAVER, August 4.—Yesterday, the Court having given his charge to the jury, District Attorney Carey opened the argument for the prosecution. He said perhaps the decision of no twelve men in the jury box was ever waited for with greater interest. The responsibility resting upon them is heavy, and the whole country stands

### WAITING FOR THE VERDICT.

The speaker briefly reviewed the testimony produced upon the trial, showed that the object of the Prophet's first counsel in preceding the emigrants through the Territory, was to instruct the people not to sell, to them, and stir up evil feelings. Mountain Meadows was selected as the place of massacre, because it was so remote from the settlements, it was thought the crime would never become known. If the design had been carried out as planned, and the Indian allies had destroyed the company, it would have been put off with the story that it was an Indian massacre, and the guilty ones might have escaped suspicion and punishment. But the bravery of the emigrants defeated the treacherous plot. Having placed themselves in the posture of defense, the Indian mode of warfare, they made an effort to dislodge them, and the stratagem of the white man had to be resorted to, and

### JOHN D. LEE WAS THE MAN CHOSEN

to lure this band of emigrants, numbering upwards of a 100 souls, to their destruction, and after the deed was done and the victims of Church rapacity and vindictiveness, lie stiff and stark upon the silent plain, he returns to the people of Harmony and calling them together in a meeting, recounts the details of the fearful butchery, and

### THANKS GOD FOR HIS ESCAPE.

The speaker dwelt with force upon the cowardice of shooting down unarmed men and the infamy of letting loose ferocious savages upon terrified women and helpless children. Indisputable proof shows the prisoner to be one of the most active participants in the massacre, and the jury could not do him injustice except they

### FAILED TO HANG HIM.

Judge Sutherland, for defense, began an elaborate argument by moralizing upon the subject of death. After appealing with great force of language and very becoming sentiment to the sympathizing jury, he proceeded to review the testimony. He said the evidence showed some

### WHITE MEN WERE ENGAGED IN THE MASSACRE,

besides a number of Indians. There were over a hundred emigrants. The speaker had kept record of the names as developed in the testimony and found but twenty-three white men were present, and of those but seven are now living. Only two or three of those had been allowed to testify what they saw and heard, and others what they saw only.

### UNDOUBTEDLY TREACHERY HAD BEEN USED,

and it would afford intense satisfaction to every fair mind to see the guilty parties punished, but the prisoner Lee was not one of them. He engineered the apparent capitulation by the terms of which the Indians were to have the plunder, and the emigrants pass on safely.

The speaker alluded to the inquiry of the prosecution, why the settlers had not joined with the emigrants and together resisted the Indians, but the speaker saw danger in such a union. The Indians far outnumbered the whites and would have triumphed eventually and the settlers would have been exterminated. John D. Lee acted in entire good faith; his object was to protect the emigrants, but Klingsmith and other Mormons, whose hearts were black as the Indians, treacherously violated the truce, and thus precipitated the massacre. The counsel proceeded, to pay special attention to Klingsmith, dwelling upon his testimony with great severity. He was a murderer and a perjurer. Of the number of witnesses placed upon the stand he was the only one who confessed he had killed his man. If he opposed the massacre, why bathe his hands in blood? Why didn't he elevate or depress his piece so as not to take life? If he had opposed the destruction of the emigrants, why not have some accident happen to his gun at the right time? If he killed a man, he is a murderer; if he lied about it, he is a perjurer. The counsel asked how much is such evidence worth. A man who, according to all laws, ought to be hung, and if tried for the offense would be hung, is brought forward as a witness to convict a prisoner. The jury ought not to believe Klingsmith. He either lied in giving the evidence or is a murderer, and ought to be hung instead of strutting around bearing testimony to convict other people. He should have long since paid forfeit for the deepest crimes, and should now lie rotting in his grave.

The speaker next paid polite attention to Joel White. This man was associated with Klingsmith in the transaction; was of similar character.

In obedience to the natural law, those two men graduated together. He is the messenger who carried the letter to Pinto creek; he drove out the baggage wagon to Mountain Meadows, not expecting to fight the emigrants, yet stood in the ranks without protest and countenanced the slaughter by his presence and tacit approval. He knew the use of the flag of truce was a resort to treachery; he knew the emigrants were being led out to their death, men, women and children. Why did he not say, "Friends, let us pause; let us not be guilty of this bloodshed." Didn't he act the lie in assenting to the death of these emigrants? Bill Hickman brings him from his hiding-place, has charge of him while here, and inspired his thoughts and controls him. Does not the jury perceive the similarity between Bill Hickman and the other two. He then dwelt upon the discrepancy between the testimony of Klingsmith and White in regard to the meeting of Ira Allen, on their return from Pinto. Smith talks about the Mormon troops being formed into a hollow, and Higbee addressing them. White remembers nothing of this. Their testimony is contradictory. Robinson, sub-gent at Pinto, to whom the letter was said to be delivered, remembers nothing of it. Smith tells a yarn about meeting Lee in the field as he was going to Pinto, and telling him the object of his journey, to which Lee says: "I've got something to say about that." White tells the story differently. Counsel found severe

### FAULT WITH SMITH'S MEMORY.

It can be trusted in some things, but fails in others. The purpose of both witnesses was to fix the guilt upon some other person.

Argument was resumed this morning, Sutherland still speaking. He briefly reviewed the topics touched upon yesterday. Twelve participants in the massacre are known; five only have been produced by the prosecution, who have described the pantomime of the field. If the jury were a committee they would send for the remainder and hear the statement of all. Klingsmith and White are accomplices; they are

### CONFESSED MURDERERS.

The prosecution have given the former absolution, hence he is under no fear of any crime. He confesses himself a man capable of murder, and is, therefore, fit for any other crime; for this, like Aaron's rod, swallowed up all the rest. Counsel then touched upon the amount of evidence necessary to remove a reasonable doubt. The law presumes a person innocent until such a quantity of evidence has been presented to the jury as removes all reasonable doubt. But with so numerous discrepancies as exist in the testimony the prosecution has produced, no fair-minded man can say he has no reasonable doubt of the guilt of the prisoner. He pointed out

### A FEW DISCREPANCIES.

White swears the troops were formed in line and received orders what to do; Smith says they were formed in a hollow square and thus addressed by Higbee. Other witnesses know nothing of this. A man who is found to testify falsely in one thing ought not to be believed in anything. Will you believe Smith told the truth and the other witness lied? Unless the jury find that the Mormons present were placed under orders to march down and fire upon the emigrants, there was no combination formed, no plot to be carried out except the capitulation of the emigrants, the surrender of arms, and a safe convey to a place of safety. Otherwise their presence there was a mere accident, and not in pursuance of anything that went before. Some men in Cedar, Parowan and Harmony didn't go to the Meadows, and those who went there proceeded voluntarily and promiscuously.

### LIKE A FLOCK OF SHEEP.

Those who were present went on call to assist the emigrants, like good Samaritans, to save and not destroy. No one man had any intimation that he was expected to do aught else but assist. Yes, there was one man, Klingsmith, who had an intimation that the object was to do wrong. While on the ground his evil nature gained control, and inspired by the example of the Indians, he did as they, being akin to those savages in instinctive ferocity. If he went there from humane motives, he should have remained in such a mood until the end. Could you take any infant settlement and scoping up half a hundred people, find them all murderers? The world is not populated this way. Every able-bodied man was enrolled in the militia, and this was a very proper organization, because it was to defend themselves against Indians. Yet the prosecution would have the jury believe that these were all murderers. The counsel then gives his

### THEORY OF THE MASSACRE.

The [emigrants] had sustained three days' siege by the Indians; were suffering from thirst, and their provisions and ammunition was running low. The last day when the company marched out the Indians had disappeared. This admits of two suppositions. Either the Indians had so terrified the emigrants that the rescuers thought it necessary to hide the Indians while the latter were brought out, and if it was arranged they should let the emigrants pass by and have their property, thus explains the whole programme. There has been some communication. The other hypothesis is that the Indians were stowed away in ambush that they might sally out and massacre the victims at the most opportune moment. One of these suppositions is

### FOUNDED UPON TREACHERY,

the other upon humanity and good faith. The emigrants were reduced to extremity, willing to sacrifice their worldly goods to save their lives. Can the jury believe that the Indians were, by such an arrangement, to go into ambush and have revenge by shooting down their victims when unable to resist? Let them be sure that the testimony justifies such a conclusion. They are asked by the prosecution to believe this upon contradictory and insufficient evidence, and be driven by the clamor about the civilized world watching their verdict to this murderous conclusion. The emigrants were killed without the participation of Lee, who brought them out. No candid man would believe Smith, and strike his testimony out, how meagre the amount that remains. The shooting was done by individual impulse and not by concert of action.

Few men can commit murder; fewer can compass it by treachery. What did the Mormons want to kill the emigrants for? They had

### DONE THE MORMONS NO HARM.

But suppose the latter had wanted to kill them, would they have been likely to preach about it in the pulpits, and talk about it on the streets? The speaker, after a further review of the testimony, finished by saying the jury might lament the destruction of the emigrant company, but there would be no justice in adding John D. Lee to the list of slain, merely to appease the popular demand for a victim.

The rest of the day was occupied by Messrs. Hoge and Bishop in reviewing the testimony and abusing Klingsmith and other witnesses for the prosecution. Mr. Baskin will close for the people to-morrow, then the case will go to the jury. A verdict is not expected.