

from Platte. Cobb then remarked, that all Clay and Ray were turning out to come against them. Wight or Smith, observed he did not believe that was true. Lyman Wight said their cause was just; he considered they were acting on the defensive, and he would as soon 50,000 should come as 500.

And further this deponent saith not.

JAMES B. TURNUR.

[At this stage of the examination, Clark Hallett and Joel S. Miles were arraigned, and having time allowed them to procure counsel, they informed the court they did not wish counsel, and knew of no witnesses that they desired; and that they were ready to progress in any trial that might affect them; whereupon the trial progressed.]

*George W. Worthington*, a witness on behalf of the State, produced, sworn and examined deposed and saith: It was on Thursday, about the 18th day of October last, that Gallatin was taken by the Mormons. I reside in about a quarter of a mile of town. About one hundred Mormons, commanded by Captain Patten, as I have since learned, rushed into town; seven or eight of the citizens were there, who immediately fled. A portion of the Mormons (about fifty) surrounded my house. They took a horse, saddle, and bridle out of my yard, belonging to John A. Williams of Daviess county. They attempted to take my mare also, but ultimately agreed to let me have her; but they took my gun. I wished to know the name of the man who got it, so that I might get it at some future day. The Captain told me I need not ask for names; for they would not be given; they then all went up into town, as they said, to attend to that store; shortly after, three or four of them returned to my house again; and one of them was Joel S. Miles, one of the defendants here; they came after a Mormon girl, who was at my house; and they told me that, if I belonged to neither party, I had better put off, and take the best of my property with me. After they left, I went up into town to see after some books, notes and accounts, I had up in town; but could not get hold of them, as they had been taken. I met with one of the company, some distance from Stolling's store, who told me if I would go to 'Diahmon I could get them, as well as a coat-pattern, which had also been taken. This person advised me to go to 'Diahmon or Far West, for protection. I turned off from him to return home. I looked towards the storehouse, and saw the smoke in the roof; and in a short time the flames burst out of the top of the house. I thought it best then for me to put out, seeing they were burning. It alarmed me, and I fixed, and did start, that evening, leaving something like \$700 worth of property in my house. After I left, my house was burnt, and the property gone. Since then, I have seen some of my property in a vacant house in 'Diahmon; some in a storehouse; some in a house said to be bishop Knight's; all in 'Diahmon. These articles consisted of a clock, two glass jars, a box-coat, a paper of screws, some paints, a canister of turpentine, and some planes,

chisels, squares, &c. These were found since the surrender of arms in 'Diahmon, by the Mormons. I saw a number of articles also in 'Diahmon, at the time I was seeking after my property, which, I believe, were taken from Stolling's store, consisting of a leghorn bonnet, a castor, screw and hinges or butts, which I knew belonged to Stollings. I saw a number of articles which had been concealed under ground, consisting of pots, ovens, and skillets; among them a pot belonging to myself. And further this deponent saith not.

GEO. W. WORTHINGTON.

*Joseph H. McGee*, a witness for the State, produced, sworn, and examined, deposed and saith: On Thursday, the 18th day of October, I was at Mr. Worthington's, in Daviess county, when the Mormons made an attack upon Gallatin. Mr. Worthington had a pair of saddle-bags in my shop, (in Gallatin,) with notes and accounts in them; and he requested me to go up to the shop, and try to secure them. When I went up, the Mormons had broken open my shop, and taken them out; one of them had put the saddle-bags on his horse, and I asked him for them. He answered, that he had authority from Captain Still to take them, and would not let me have them. He then told me I must go up to the store. I went along; and when I arrived there, Clark Hallett, one of the defendants, told him that he knew little Joe McGee; that there was no harm in him, and to let him go. I was then turned loose. While at the store, I saw the Mormons taking the goods out of the store house, and packing many of the articles off on their horses; a number of barrels and boxes were rolled out before the door. When these men who had goods packed before them, rode off, I heard a man, who remained at the store, halloo to one of them to send four wagons. I went down to Mr. Worthington's; and, in returning towards the store again, a short time after, I saw the smoke and flames bursting from the roof of the store house, and three men coming out of the house, who immediately rode off. The balance of the company had just previously left, except two, who were at Mr. Yales's, a citizen there, guarding him. I heard Parley Pratt order the men to take out the goods before the house was set on fire. I also saw Joel S. Miles there in the Mormon company. The following articles were taken out of my shop, in addition to Mr. Worthington's saddle-bags: two bed-quilts, a black broadcloth coat, three pair of pantaloons, two vests, a roundabout, two shirts, a pair of socks, a looking-glass, a pair of shoes, and some trimmings—such as thread, buttons, &c., all belonging to myself; 5½ yards of broadcloth, with trimmings; also a vest pattern and trimmings, belonging to Mr. Worthington, and 2½ yards of cloth, and the trimmings, belonging to James Handley; also, 3½ yards of cloth, and a vest pattern and trimmings, belonging to Mabery Splawn; 7 yards of jeans and trimmings belonging to Enoch Riggs; also, 4 yards of jeans and trimmings belonging to Thomas Gilbrath; also, 4 yards of jeans and trimmings belonging to Mr. Creekmore, and 3½ yards of jeans and trimmings belonging to James Bleckley.

And further this deponent saith not.

J. H. MCGEE.

*John Lockhart*, a witness for the State, produced, sworn, and examined, deposed and saith: That he was in Bogart's company, and was one of the picket guard on the morning of the attack. Myself and the other guards were standing at the same tree, near the road, about a quarter of a mile from the camp; and about day-break we discovered men approaching us in the road. When the front of them got within about 15 or 20 steps of us, the other guard raised his gun. I told him not to shoot, but to hail them. He hailed them, and asked "Who comes there?" They replied, "a friend;" but still moved on. I hailed the second time, and bade them to stand. I asked who was there; they answered, a friend. I asked them if they had any arms; they replied, a few. I told them to lay down their arms, and go off, and leave them; they told me to come and get them. I again told them to lay them down, and leave them; they made a noise with their guns, as if they were laying them down, and again called to us to come and get them. I could see clear enough to perceive that they had not laid down their guns, as they said they had done; but had them on their shoulders. At that time I discovered one of the men strike the ground with his sword, and immediately I heard a percussion cap burst without the gun's firing. I told the other guard to shoot; that they had bursted a cap at us; and immediately I raised my gun and fired—the other did not shoot. We then ran to the camp, where, in a few moments, the Mormons arrived, and the action commenced.

When we were placed on guard, we had express orders to hail before we shot at any one. The company we hailed in the road was the same who attacked us.

And further this deponent saith not.

his  
JOHN X LOCKHART.  
mark.

*Porter Yale*, a witness for the State, produced, sworn, and examined, deposed and saith: I was at Gallatin, at my father's, when the Mormons made an attack upon it and burnt it. When they surrounded my father's house, they took two guns—one a shot gun, and one rifle. In going to the door, I saw one of them taking my mare out of the stable. I went over to see what he was doing; who observed "that it was a pretty good mare," and was about putting a bridle upon her. I told him, if she went, I would go along, (as I was determined to stick to my nag.) He replied, that he wanted me to go. I then caught my mare, and went with the company to 'Diahmon, where they kept me two or three days. There appeared to be about 100 Mormons (at Gallatin;) and a portion of them left with me for 'Diahmon, others were behind, coming on. Most of them had goods packed before them, on their horses, which had been taken from Stollings' store.

Two men went on ahead for wagons; and on my way to 'Diahmon we met two or three wagons, which they said were going after the goods. I left before the store was set on fire; but I heard some of the

company command to take all the goods out before setting the house on fire.

The following of the defendants were in this expedition to Gallatin: Ebenezer Page, Morris Phelps, and Joel S. Miles. And the following of the defendants I saw at 'Diahmon, while I was there: Joseph Smith, jr., Lyman Wight, and James H. Rollins.

I was in 'Diahmon three days, and during that time saw a great deal of plunder brought in. Companies went out every day. A great deal of honey was also brought in, also cattle and hogs—all which was called consecrated property. I was a stranger to most of the men I saw. And further this deponent saith not.

PORTER YALE.

*Benjamin Slade*, a witness for the State, produced, sworn, and examined, deposed and saith: I was at a meeting in the school-house in Far West, while the Mormon troops were in 'Diahmon, in the last expedition. After the assembly had got into the house, a guard was placed at the door. Mr. Rigdon got up, and, in a speech, said that the time had now come in which every man must take his part in this war, and that they had been running away, and leaving Caldwell county, and that the last man had now left the county that should be allowed to do so. A formal vote, by way of resolution, or covenant, was put—that, if any man attempted to leave the county, any one of the company then present was to kill him, and say nothing about it, and throw him into the brush. When this was put to the vote, I heard no one vote against it. Rigdon then called for the negative vote, and said he wanted to see if any one dare vote against it. There was no negative vote. There was other questions put and voted on; but I sat at the back part of the house, and did not distinctly hear what they were. I heard Mr. Rigdon say that "yesterday a man had slipped his wind, and was thrown in the brush;" and, said he, "the man that slips it shall die." Several companies were called for, and made up at this meeting—a spy, provision, and wood company, &c.

And further this deponent saith not.

BENJAMIN SLADE.

[At this stage of the examination the following defendants, on motion of the attorneys prosecuting on behalf of the State, were discharged, there being no evidence produced against them, viz: Amasa Lyman, John Buchannan, Andrew Whitlock, Alvin G. Tippetts, Jedediah Owens, Isaac Morley, John J. Tanner, Daniel S. Thomas, Elisha Edwards, Benjamin Covey, David Frampton, Henry Zabriski, Allen J. Stout, Sheffield Daniels, Silas Manard, Anthony Head, John T. Earl, Ebenezer Brown, James Newberry, Sylvester Hewlett, Chandler Halbrook, Martin C. Alred, and William Alred.]

*Ezra Williams*, a witness on behalf of the State, produced, sworn, and examined, deposed and saith: I was in the last expedition to Da-

viess county, and saw the following of the defendants there, to wit: Joseph Smith jr., Lyman Wight, Hiram Smith, George W. Robinson, Parley P. Pratt, Jacob Gates, Jesse D. Hunter, George Grant, Francis Higbey, Geo. Kimbel, Morris Phelps, Norman Shearer, and Lyman Gibbs. And the following named defendant was in the fight with Bogart, viz: Norman Shearer.

I was in Captain Patten's company when he took Gallatin and robbed the store. The goods were packed off (a great many of them) before the men, on their horses. My captain often gave me some, which I packed off before me, to 'Diahmon. They were deposited in a house on the river bank.

And further this deponent saith not.

EZRA WILLIAMS.

*Addison F. Green*, a witness for the State, produced, sworn, and examined, deposeth and saith: The following of the defendants were in the expedition against Bogart, to wit: Lyman Gibbs, Norman Shearer, and Darwin Chase. I saw Joseph Smith, jr., Sidney Rigdon, Lyman Wight, and Francis Higbey, come riding up from towards Far West, meeting the company who had that morning fought with Bogart. They met the company near the timber of Log creek in Caldwell county. I was one of the spy company from Far West; and the evening before the fight Captain Bogart had taken me prisoner in Ray county, but released me the same evening, and told me I could go home; but I thought proper to remain with them in camp that night. I was at a meeting in Far West, the Saturday before the fight with Bogart, in which a spy and other companies were organized. I heard Sidney Rigdon (speaking of those who would attempt to leave the county at that time) say, "it was the duty of any present, if they saw such movements, to stop the men;" and if they persisted in going, he said something about sending them to the other world to tell their hellish news, or something like this.

The evening that I and one Pinckun were taken prisoners (who was liberated when I was,) our two horses were also. I knew of nobody about, who could have taken the news to Far West.

And further this deponent saith not.

A. F. GREEN.

*John Taylor*, a witness on behalf of the State, produced, sworn and examined, deposeth and saith: In the morning of the battle with Bogart, I was on the prairie a short time after the battle, and saw the Mormon company on their return. I saw Lyman Gibbs one of the defendants, in the company. This was about one and a half mile from the battle ground. Gibbs had arms, and charged me with being a mob; said he knew I was, &c.

And further this deponent saith not.

his  
JOHN  $\times$  TAYLOR.  
mark.

[John Taylor lives in Ray county, near the Caldwell line.]

*Timothy Lewis*, a witness for the State, produced, sworn, and examined, deposeth and saith: I was at 'Diahmon during the last expedition to Daviess county. I remained in the place during the time the Mormon troops were there. I was out on none of their scouting parties, but saw a great deal of property and plunder brought in, which was said to be consecrated property by those who brought it in, as well as by others. Those who were active in plundering, said they intended to consecrate all the property in Daviess county, and take the county to themselves. They said there was no law in this State, but that a law was about to be established by a higher Power, to be given by revelation.

The following of the defendants were in the expedition to Daviess county: Alanson Ripley, David Pettigrew, and Joseph W. Younger. Alanson Ripley resides in 'Diahmon, and is a surveyor. I saw him surveying, but did not see him take up arms.

And further this deponent saith not.

his  
TIMOTHY  $\times$  LEWIS.  
mark.

[Clark Hallett, one of the defendants, at this stage of the examination asked the court to assign him counsel, he not being able to employ counsel: whereupon the court assigned Messrs. Rees, Doniphan, and Williams, as counsel.]

*Patrick Lynch*, a witness for the State, produced, sworn and examined, deposeth and saith: I was living in Gallatin, a clerk in Stolling's store, when the Mormons took that place, which was about the middle of October last. When the Mormons had approached to within fifty or one hundred yards of the storehouse, I left, having first locked the door, and deposited the key in my pocket. I ran into the brush, between one hundred and two hundred yards of the storehouse, where I saw them taking the goods from the house; some were packed off on horses; and after that, when near half a mile off, I saw wagons, apparently loaded, which I believed to be goods from the store. I have found a number of articles taken from the store in 'Diahmon, since the surrender of arms there by the Mormons—such as tin-ware, painted muslin, a piece of bleached domestic, a piece of brown cloth, a lady's cloak, three pair of scales, and a part of two sets of weights, a ledger and three day-books, and the notes of hand to the amount of perhaps \$300, were taken from the store. The books have not been recovered, but the notes I found in the house of Bishop Knight, at 'Diahmon, in the possession of his wife, except such notes as were on Mormons; these we have not recovered. In about three hours after the Mormons took Gallatin, I returned, and found the store-house burnt. The post office and treasurer's office were kept in the store-house, and the records, papers &c., belonging to each were either taken off by the Mormons or consumed by the fire.

And further this deponent saith not.

PATRICK LYNCH.

[At this point, the attorneys for the State informed the court that they had closed the testimony on behalf of the State with the understanding (which was agreed to by the defendants' counsel) that after the testimony on behalf of the defendants is closed, the State shall be at liberty to introduce John Riggs, Perry Keyes, John Grigg, and Joseph Free, witnesses on behalf of the State, if they should make their appearance at or before that time.

The court informed the prisoners that it would now proceed to take their examination without oath in relation to the offence charged; and the said defendants declined making any statement. The court then proceeded to the examination of witnesses for the defendants, to wit:]

*Malinda Porter*, a witness for the defendants, produced, sworn, and examined deposeseth and saith: I have been living in the family of Lyman Wight for the last two years, as an inmate of the family. On Monday night of the arrival of the Mormon troops at 'Diahmon, in the last expedition to Daviess, I was at Lyman Wight's house; he was not absent from the house that night; his wife was sick, and a guard was placed around his house that night. Lyman Wight has two feather-beds, and one of them was taken away by an old lady, who, I was told, was a Mrs. Morgan, and who claimed it as hers. Of the bed taken away, the tick was striped, and pieced at one end; the stripes of the piece were crosswise. This bed has been in the family ever since I have lived in it. There were also some knives and forks taken from the house at the same time, and by the same person, which were the property of Lyman Wight; and three glass tumblers were also taken from his house, which was his property. During all the time that the Mormon troops were in 'Diahmon, Colonel Wight remained in 'Diahmon, and was not out in any scouting party.

And further this deponent saith not.

MALINDA PORTER.

*Delia F. Pine*, a witness for the defendants, produced, sworn, and examined, deposeseth and saith: I have been living in Lyman Wight's family since the 5th of July last, and was at his house when the Mormon troops arrived at 'Diahmon, in the last expedition to Daviess. That night Lyman Wight remained at home all night. There was a bed in Wight's house, belonging to him, which was pieced at the end, and which has, since the surrender of the Mormons, been claimed and taken off by a woman, said to be a widow Morgan; also, she claimed and took some spoons, knives, and forks, which I knew were the property of Wight. I at no time have seen property at his house which did not belong to him. Lyman Wight never left 'Diahmon during the stay of the Mormon troops there, in the last expedition, which was during the whole time troops were in Daviess. And during the time they were in Daviess, I do not think Mr. Wight was out of my sight, at any time, more than an hour. It was Wednesday, before the snow fell, I think, that the Mormon troops arrived in 'Diahmon, and they

staid in Daviess about a week. From the time the Mormon troops returned from 'Diahmon to Far West, (who had been in Daviess during the snow-storm, and among whom I saw Joseph and Hiram Smith,) Lyman Wight never was out of 'Diahmon, until he went with the 'Diahmon troops to Far West, the day before the Mormon troops, as I understood, surrendered to the militia; this last fact I am certain of. Mr. Wight's stable was in sight of his dwelling-house, and he kept his horse there, and his saddle in the house; and during the stay of the Far West troops, as above, I am sure he did not saddle his horse, or ride, for I should have seen him had he done so.

And further this deponent saith not.

DELIA F. PINE.

*Nancy Rigdon*, a witness on behalf of the defendants, produced, sworn, and examined, deposeseth and saith: I have heard Sampson Avarard say that he would swear to a lie to accomplish an object; that he had told many a lie, and would do so again. When George W. Robinson went to Daviess, during the last expedition, he went after the troops had left Far West, and returned after some and before others had returned. I saw Mr. Robinson when he returned, and he had no clock with him, nor have I seen any clock about the house, which was brought from Daviess county. In the morning of the fight with Bogart, I heard my father, Sidney Rigdon, say that Captain Patten's company had gone down the night before to see about a mob. He was apprized of their going at the time of their going; but I knew nothing of it till that morning, when a messenger came to my father's, and informed him that there had been a fight. My father then started to meet the company, and to see those who were wounded.

And further this deponent saith not.

NANCY RIGDON.

*Jonathan W. Barlow*, a witness for the defendants, produced, sworn, and examined, deposeseth and saith: I was at Joseph Smith, jr.'s house the morning after the battle with Captain Bogart. A messenger, (named, I think, Mr. Emmett,) came early in the morning after Smith, from Captain Patten, saying that Patten was wounded, and wished to see Smith. I caught Joseph Smith and Lyman Wight's horses, who started off together. (On cross-examination.) I did the feeding, watering of horses, cutting of wood, &c., about the place of Joseph Smith, jr.; and on that evening (the evening before Bogart's battle) I was absent from the house on that business perhaps half an hour, and finished about dark. I was in the house from that time through the night, and was not out, that I remember of—at least not longer than to go a few paces for a pail of water. Joseph Smith, jr., and Lyman Wight, were both in the house all the time, and were not absent that night, that I know of; and had they been absent before bed-time long enough to have gone to the square up in town, I should most likely have known it; and I don't believe they were. They went to bed be-

fore I did; and when I went to bed, I passed through their room, where they were; and this was about 9 o'clock, or perhaps a little later. I heard no talking nor passing through the house that night; had there been any, I should most likely have heard it.

And further this deponent saith not.

JONATHAN W. BARLOW.

*Thorit Parsons*, a witness on behalf of the defendants, produced, sworn, and examined, deposes and saith: I was living in Caldwell county at the time of the battle with Captain Bogart, on the head of the east fork of Log creek, and about five or six miles from the battleground. On the day before the fight, between 1 and 3 o'clock in the evening, a company of twenty-three, mostly armed men, came to my house; they inquired my name, and told me I must go away—that I must leave that place. I asked them where I should go; they answered that was my own lookout, and that I must leave there by next day night. They were strangers, all to me; but I have seen the man since who had the command of them, and now think that it was Captain Bogart, as he looks like the man, having learned his name since. They further stated to me, that if they got the forces from Clinton county expected, they would give Far West thunder and lightning before the next day night. All that was said to me, was sent immediately to Far West. I think that Lieut. Cook was also of the company, and was ordered by the captain to go in and look for guns. I told him I had none, and he said he would take my word for it.

And further this deponent saith not.

THORIT PARSONS.

*Extra Chipman*, a witness for the defendants, produced, sworn, and examined, deposes and saith: I was at Lyman Wight's house, sick, during the late expedition to Daviess county. Lyman Wight was not out of 'Diahmon on any expedition, nor did he command any company during the stay of the Mormons at 'Diahmon, nor was he out of the town, to my recollection, during that time; had he been, I think I should most likely have known it. I saw a bed taken from Lyman Wight's house, after the surrender of arms by the Mormons at 'Diahmon, and claimed by the old lady who took it; the same bed I saw at Wight's, before the coming of the Mormons to 'Diahmon. During the stay of the Mormon troops at 'Diahmon, in the last expedition to Daviess, I am certain that Wight was not out of 'Diahmon half an hour at one time, for I think I saw him within every half hour at one time.

And further this deponent saith not.

EZRA CHIPMAN.

*Arza Judd, jr.*, a witness on behalf of the defendants, produced, sworn and examined, deposes and saith: I was at the house of Thorit Parsons, in Caldwell county, on the day before the battle with Bogart; and a company of armed men (about twenty or upwards) came there

and, after asking me something about my faith, they ordered me to leave. Mr. Parsons asked where should we go; and they answered that was our lookout. I do not know any of this company; they talked something of giving Far West thunder and lightning before the next day night; they inquired for guns; and one, who seemed to command the company, said, "we must make haste to go—Gilliam is to camp west of Far West to-night, and we must join him."

And further deponent saith not.

ARZA JUDD, Jr.

[At this stage of the examination, the defendants by their counsel, informed the court that they had closed the examination of their witnesses. The following witness was then produced as rebutting testimony on behalf of the State, to-wit:]

*Asa Cook*, a witness for the State, produced, sworn and examined, deposes and saith: That, on the day before the battle with Bogart, I was in the edge of Caldwell; but heard no man, nor did I myself, order Thorit Parsons, or any other man, away from his home; I met with a man, in the road in Caldwell county, going towards Far West, who said he was a Mormon. I told him to tell his leaders when he arrived at Far West, that we were no mob, but militia, acting under General Atchison's order. After this man left us, myself and two others, who constituted my company, turned across the prairie to the timber on the head waters of Log creek, and, at a house in the edge of the timber, I met with a number of Capt. Bogart's company, to which I belonged; and I heard Mr. Lockhart, one of the company, inquire (I think,) where Parsons lived; and I understood the answer to be, from the man of the house, that he lived lower down the creek. I never heard Capt. Bogart say any thing to this man, like ordering him off. Capt. Bogart had learned that he might probably be attacked that night, and he was out on the edge of Caldwell, to discover if the Mormons were making any movements indicating an intention to attack him.

There was a conversation (at the house, above referred to,) between John Lockhart and the man of the house, of a rough character, in relation to Parsons, as I understood it, but did not distinctly learn any thing said. I am Lieutenant of the company, and there were no orders given, nor was it understood that any member of the company was authorized, to order any citizens to leave their homes.

And further this deponent saith not.

ASA COOK.

At this point, the testimony on both sides closed, and the court being satisfied that there is no probable cause for charging a portion of said prisoners, with the offences alleged against them, to wit: King Follet, Benj. Jones, Geo. W. Morris, Elijah Newman, Moses Clawson and Daniel Shearer, they are accordingly discharged.

On motion of the circuit attorney, and it appearing to the satisfac-

tion of the court, that the offences herein before named have been committed, and that there is probable cause to believe that said prisoners are guilty thereof: that is to say there is probable cause to believe that Joseph Smith, jr., Lyman Wight, Hiram Smith, Alex. McRay and Caleb Baldwin, are guilty of overt acts of Treason in Daviess county, (and for want of a jail in Daviess county,) said prisoners are committed to the jail in Clay county to answer the charge aforesaid, in the county of Daviess, on the first Thursday in March next. It further appearing that overt acts of Treason have been committed in Caldwell county, and there being probable cause to believe Sidney Rigdon guilty thereof, the said Sidney Rigdon (for want of a sufficient jail in Caldwell county) is committed to the jail in Clay county to answer said charge in Caldwell county, on the first Monday after the fourth Monday in March next. It further appearing that the murder of Moses Rowland, has been perpetrated in the county of Ray, and that there is probable cause to believe that Parley P. Pratt, Norman Shearer, Darwin Chase, Lyman Gibbs and Maurice Phelps, are guilty thereof. They are therefore committed to the Ray county jail, to answer said charge, on the second Monday in March next. It further appearing that the offences of Arson, Burglary, Robbery, and Larceny, have been committed in Daviess county, and there being probable cause to believe George W. Robinson, Alanson Ripley, Washington Voorhees, Sidney Tanner, Jacob Gates, Jos. Hunter, Geo. Grant, Thos. Rich, John S. Higbey, Ebenezer Page, Ebenezer Robinson, James M. Henderson, David Pettugrew, Edward Partridge, Francis Higbey, Geo. Kemble, Jos. W. Younger, Daniel Carn, James H. Rawlins, Lemuel Bent, Jonathan Dunham, Joel S. Miles and Clark Hallett, are guilty thereof, and the last mentioned offences bailable, it is ordered that said defendants severally enter into a recognizance for their appearance on the first day of the next term of the Daviess circuit court, to be holden on the first Thursday after the fourth Monday in March next, each in the sum of \$500, with security for the like amount, except George W. Robinson and Edward Partridge, who are required to give bail in the sum of \$1,000 each, with good security for the like amount; and also Daniel Carn, who is required to give bail in the sum of \$750, with good security for the like amount. Whereupon Edward Partridge, George W. Robinson, Jacob Gates, Sidney Tanner, Washington Voorhees, James H. Rawlins, William Whitman and Joseph W. Younger, severally entered into recognizance as requested. The other defendants being unable to give sufficient bail, are committed to the jail in Ray county—there being no sufficient jail in Daviess county.

AUSTIN A. KING.

Judge 5th Judicial Circuit.

As Judge of the fifth Judicial Circuit, in the State of Missouri, and sitting as a court of inquiry against the above named defendants for the several offences of Treason against the State, Murder, Burglary, Arson, Robbery and Larceny, I certify that the several witnesses

herein before examined, were severally sworn by me according to law, and their examination taken by me, in the presence of the prisoners, and reduced to writing under my direction, and signed by said witnesses respectively, after the same was read over to them, and that said examination was commenced by me on the 12th day of November A. D. 1838, and ended, and the prisoners disposed of by me, as herein before stated, on the 29th of the same month.

AUSTIN A. KING, Judge &c.

NOTE.—By the Statute of Missouri, if the examining court should be of opinion from the evidence, that an offence, as charged, had been committed, and that there was probable ground to charge the prisoner therewith, it is the duty of the court to commit or bind the prisoner over to the next court, at which time the charge is to be investigated by a grand jury.

The above prisoners were subsequently indicted as charged above.

*O. H. Searcy to General Clark.*

GEN. CLARK:—I think you have now all the testimony. Col. Price informed me, that your aid and himself transcribed the testimony of W. W. Phelps and Reed Peck. If any is wanting, it is John Cleminson's, but I think I transcribed that in the book you took down with you. Below I give you a list of the witnesses, in the order they were examined—if the testimony of any are lacking, I will transcribe it for you.

I remain, respectfully,

Yours, &c.,

O. H. SEARCY.

*List of witnesses for the State.*

Sampson Avaré, Wyatt Cravens, Gen. Atchison's order, Nehemiah Odle, Capt. Samuel Bogart, Maurice Phelps, John Correll, Robert Snodgrass, George Walton, George M. Hinkle, James C. Owens, Nathaniel Carr, Abner Scovell, John Cleminson, Reed Peck, James C. Owens, re-examined, William Splawn, Thomas M. Odle, John Raglin, Allen Rathbun, Jeremiah Myers, Andrew J. Job, Freeburn H. Gardner, Burr Riggs, Elisha Camron, Charles Bleckley, James Cobb, Jesse Kelly, Addison Price, Samuel Kimbel, Wm. W. Phelps, John Whitmer, James B. Turnur, George W. Worthington, Joseph H. McGee, John Lockhart, Porter Yale, Benjamin Slade, Ezra Williams, Addison F. Green, John Taylor, Timothy Lewis and Patrick Lynch.

*Witnesses for the Defendants.*

Malinda Porter, Delia F. Pine, Nancy Rigdon, Jonathan W. Barlow, Thorit Parsons, Ezra Chipman and Arza Judd, jr.

*Rebutting testimony for the State.*

Asa Cook.