

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. Notwithstanding this confession, and notwithstanding the fact that he stands before you a clearly proven perjurer, he wanted to make you believe that he was an exemplary man, and that his bosom was all but overflowing with the "milk of human kindness."

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; and that at the first fire the Indians came rushing down in overwhelming numbers upon the emigrants, slaughtering men, women and children. Now, therefore, is it not a reasonable inference and in fact the only rational conclusion at which we can arrive, that the Indians were the only ones who fired, with the exception of Klingensmith?

Another theory of the prosecution is, that Lee incited the Indians to massacre the emigrants. There is not one word or syllable of testimony to substantiate this, except what Klingensmith says; which is, that Haight or some one else told him such was the case. While at the Mountain Meadows Smith says that the Indians were under the control of Carl Schurz, and that Higbee had command of the "troops." Lay aside the testimony of Klingensmith, which I think I have conclusively shown is unworthy of your serious consideration, and what testimony have we left that reflects upon John D. Lee? None whatever.

When his statement is stripped of all the inconsistencies and contradictions with which it is clothed, there is nothing left but a deformed, limbless and hideous skeleton.

Gentlemen of the Jury, look at this man Klingensmith, 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 or efface the damning marks of crime upon his villainous countenance. He stands before you proven to be a perjurer, a confessed assassin. He stands before you, gentlemen, a confessed moral coward, and God hates a coward. Klingensmith confessed himself a coward and hated of God when he said he did not have the moral courage and manhood to raise his voice to stay the hand of the slayer, but, as stated by himself, voluntarily imbrued his hands in the blood of over one hundred innocent victims, men, women, and children. I ask you, gentlemen, how much credit is due the statement of such a man? Do you for a moment believe any of his evidence? Don't you feel morally certain in your own minds that he has lied? Villain and perjurer are too prominently stamped upon his every feature, for you to believe him, I am sure. Did he impress a man of you that he was telling the truth? No, gentlemen. When you come to look over his testimony and weigh it coolly and dispassionately in your minds, can you say it is true? I can't think it possible that you can. Can you say from the evidence that John D. Lee is guilty of the offence with which he is charged? Don't it raise a doubt in your minds of his guilt? Test this evidence in the crucible of reason and I am sure you will arrive at the same conclusion that I have about Klingensmith, who, on the witness stand, acknowledged himself to be a cold blooded murderer and assassin, that he is unworthy of belief.

Aside from the circumstances already 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 upon your minds that he is utterly unworthy of belief, except he is corroborated by credible witnesses. I now allude to the price at which he is brought to testify.

Suppose a witness should come upon the stand and testify, and, after having detailed a story which was calculated to fasten the guilt of a horrible crime upon the prisoner at the bar, he should afterwards confess that the prosecution had paid him ten thousand dollars for his testimony. Gentlemen, could you convict the prisoner

upon such purchased testimony? 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 perjurer's soul! Now you may ask me if I mean to assert that Klingensmith has sold his testimony for ten thousand dollars. Gentlemen, I will prove to you that he has 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, gentlemen! Worthless as his life is, still to him it is worth more than money. He has not that love for his fellowman that would make him take money that others might enjoy, while he would have to undergo the torments which retributive justice will be sure to mete out to him for his crimes beyond a felon's grave. Gentlemen, he has sold his testimony for a purpose, and that purpose is to convict John D. Lee. Throw aside the testimony of this accuser, and what evidence have you left upon which Lee can be convicted? Not a tittle!

Gentlemen, 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 repeat it.

There is another point in the evidence which I do not want you to overlook. The witness Bradshaw states, that after the Indians had attacked the emigrants at Mountain Meadows, he heard Haight say, in a sermon at Cedar City, 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? It could not be Klingensmith. He never claimed to have had anything to do with the Indians, and he says the only men who had anything to do with them were Lee and Carl Schurz. Haight must therefore have meant John D. Lee. He could not mean Carl Schurz, because he was a very young man, a mere boy, and could not therefore be called an old fool.

I hardly deem it necessary to call your attention to the testimony of Mrs. Hoag, one of the witnesses for the prosecution. The prosecuting attorneys are evidently 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 about five hundred and fifty miles in less than 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.

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. And still, upon the testimony of Klingensmith, contradicted as he is by White and others, and even by himself, the prosecution ask you to bring in a verdict of 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," as they call it. Will you do it, gentlemen? Will you make an example of this old man, and shed his blood to appease public clamor? Will you violate your oaths, and dye your hands in innocent blood, because the prosecuting attorney says that the "public demand it"? Gentlemen, no! You will not violate your oaths and honor, but will judge according to the law and the evidence.

I now call your special attention to the law as laid down by his Honor on the bench, in his instructions to you, and I wish you will carefully weigh it, and apply it to the evidence in this case. It is as follows:

"Before you can find the prisoner 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 a 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 the possibility of a doubt is not required, because such proof never can be made. It is not necessary to show to you that it is not possible that the prisoner is innocent to show beyond all possibility of a 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 prisoner's guilt; that the evidence produces in your minds 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 verdict in a civil case, but not so in a criminal case. You must be satisfied from the evidence, beyond any fair, reasonable doubt, of the defendant's guilt; you must have an abiding conviction to a moral certainty of his guilt, or you should acquit him, but absolute certainty of guilt is not necessary—moral certainty is sufficient."

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 well, try it in the crucible of reason, and then ask yourselves if you have no reasonable doubt of the defendant's guilt as charged in the indictment. If you have not, then you must find him guilty. I am no apologist for crime—especially such a horrible crime as that charged in this case. We do not come before you to defend crime; but we come before you to defend the rights of John D. Lee, the only defendant who is on trial before you. You have nothing to do, except to perform your sworn duty, to find him guilty or not guilty according to the evidence. Feeling confident that you understand the testimony, and that you will bring in a verdict in accordance with the evidence before you, without fear or favor, I leave the case with you.

## Correspondence.

### Delinquent Taxes.

SALT LAKE CITY,  
Aug. 24th, 1875.

Editor Deseret News:

One of the parties delinquent in the matter of city taxes, who has been notified of the attachment of a portion of his property to meet the amount, has been blowing considerably of late about his intention of not paying up, and about the City having no power to act in the premises, which latter idea, at least, is sheer nonsense, the position that a municipal corporation has not the right to protect and sustain itself being an insane one. But a peculiarity in this particular case is that the individual alluded to has been connected for a considerable time with the rabid "ring" who have been loud in their clamorous moanings about investigating the financial business of the corporation. The published list shows that this person has not paid a cent into the City Treasury for five years, and he has so little consciousness of the fitness and consistency of things as to be poking his nose into other people's business by insisting upon knowing what is done with other people's money; but he is only one of his class, who are willing to share in the general benefits of an institution without lifting so much as a little finger toward sustaining it, but rather seek to decry and calumniate it. Very "liberal" such fellows are.

GUMPTION.

### Boston Morality.

I heard a conundrum, the other day, which was original with a lady who occupies a high social position in an Eastern city. One day while entertaining a gentleman who had called, she pointed to a cat which lay before the fire licking her paws. "Why," she asked, "is that cat like the Magdalen?"

The gentlemen gave it up, and was informed that it was because she was "brooding over her faux pas (four paws)." One has to take a little liberty with French pronunciation to make this joke effective; but I suppose it is pardonable in such a case. Another witty lady, returning brown as a berry, after a long sojourn at the mountains, was met by her brother, who, as he lifted her from the carriage, cried, amazed at her dark skin, "Imp o' darkness!" "Imp o' light" (impolite) was her instant reply. But I began with the intention of saying that the half hundred Magdalens who have been swept up from our streets these last few evenings, and deployed in the police court, charged with night walking—that these young women do not give themselves much trouble about their faux pas. On Monday twenty-six young women were in the dock of the Police Court. Despite the ignominy of their situation and the disgrace of confinement in a penal institution, to which they were sentenced, not one of them shed a tear or showed a sign of womanly emotion. Of the whole number twelve were less than twenty years old. These arrests of night-walkers are spasmodic, and do no permanent good. This recent "spurt" of the virtuous police is due to the fact that some stranger in Boston wrote a letter to a New York paper, in which he described in pretty strong language the swarm of harlots that haunt certain quarters of the city. Some of our local papers, thinking to make a little popularity, took up the subject and cried out against the laxity of the police. So, for two or three nights, a score or two of women have been arrested and sent to the Island to come out by and by refreshed for a new career. In a few days the police will "let up," and will suffer the women to ply their vocation undisturbed till some other stranger makes a row. I suppose it may be truthfully said that so far as lasciviousness is concerned, Boston is the vilest city in the Union, its size being considered.

A respectable young lady in Bowdoinham, Me., has created excitement and distressed her friends eloping with a lover who has served two terms in the State Prison for horse-stealing. Very respectable.

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