

the defendants were bringing it to Tremonton. Another witness testified that he saw the truck loaded with wheat at a point about three miles west of the point where the wheat is alleged to have been stolen. ^{Stone} ~~Stone~~ is also west of this point. The wheat which was introduced in evidence and obtained from the truck load corresponded with the wheat obtained by the defendants during the summer, and did not correspond with the wheat which was stacked by the side of the road by the complaining witness, and which is alleged to have been stolen.

VIII

The evidence is insufficient to sustain or justify the verdict or judgment in the following particulars, to-wit:

No exact measurements were introduced as evidence of the track made by the truck owned by the defendants, or by the truck which was alleged to have carried off the wheat owned by the complaining witness. Evidence was introduced to show that there was a truck parked by the side of the road late during the night on which the wheat was stolen, and that said truck had a capacity and resembled the truck owned by the defendants.

IX

The evidence is insufficient to sustain or justify the verdict or judgment in the following particulars, to-wit:

The complaining witness testified that he had planted and raised but one kind of wheat, to-wit, Marcus wheat; while the evidence introduced in behalf of defendants show that there were six sacks of Turkey Red Wheat in the truck load of wheat they were hauling at the time in question. This Turkey Red Wheat could not have been the property of the complaining witness under his own testimony.

X

The evidence is insufficient to sustain or justify the verdict or judgment in the following particulars, to-wit:

The complaining witness, Walter B. Glenn, testified that he raised but one kind of wheat, to-wit, Marcus wheat; and the testimony of several witnesses who examined the wheat in the county jail, which had been taken from the defendants' truck, stated that