

About two o'clock A. M., the complaining witness testified that he was awakened by his horses near the house and that he rose to drive them away and that then he heard a truck on the highway coming from the west and proceeding east driving slowly with no lights on and he heard the truck stop in the road by his wheat pile.. (Trans. page 21).

It was a moon light night. He went into the house, dressed and went down to within seventy steps of the wheat pile and hid behind a knoll. There he saw one man at the wheat pile (Trans. p 23) and at no time saw two men. He saw this man make two or three trips from the wheat pile to the truck. (Trans. page 23). There was no attempt made by the complaining witness to identify either of the defendants as being the person he saw at the wheat pile. He made no protest, outcry or remonstrance. (Trans. p 64-65) but after watching the man for fifteen minutes (Trans. page 22) he went back to his house, got a horse and rode to a neighbors (Anderson) and then to another neighbors (Slim Hyde), woke them up and returned home on horseback. This trip on horseback to Anderson's consumed about one half hour (Trans. page 24) and when he returned the truck had gone. (Trans. page 25). Later Anderson and Hyde drove up in Anderson's Ford car and the complaining witness got in with them and they drove on to another neighbor's (Marion Hyde) house and there telephoned to the sheriff. (Trans. page 26).

They followed the main highway for about nine miles to another neighbors, (Heber Stahl) and there passed a truck stopped by the side of the road between forty and sixty rods east of Stahl's house. (Trans. page 28). They did not stop and examine this truck, ~~only~~ ^{even} talked to the persons in charge of it, but drove on along the main highway five miles further (Trans. page 29) to a place called Blind Springs. The complaining witness was not positive that the truck they passed was the same truck that had passed his house. (Trans. page 28). While waiting at Blind Springs they saw a truck coming down the road with two lights burning in front of the truck, (Trans. page 70) and they thereupon drove their car off to the side of the road and let the