

also page 68-69). The complaining witness admitted that he could not see what kind of a truck was at his grain pile. On this point he gave the following testimony: (Trans. page 70).

"Q Did you not testify at the preliminary examination that you could not say as to what kind of a truck was at the grain pile?

A Yes, sir.

Q Did you not say that you could not see what kind of truck was at the grain pile?

A Yes, sir.

Q Was that because of the darkness of the night or because of your distance from it, or both?

A It was possibly from both."

He further testified: (Trans. page 80-81).

"Q You didn't know that it was your wheat till you got up there and examined it?

A Well, I was pretty well convinced it was.

Q You are not absolutely sure now, are you?

A Pretty certain.

Q But you didn't know it till after you examined it. Isn't it a fact, Mr. Glenn, that you have lost wheat out there, and that you are attempting now to get this wheat that is over here in the jail, and claim it to pay up some of your obligations?

A I claim it is my wheat.

Q Isn't that the point, that you are trying to get this wheat that is in jail now, to pay some of your obligations, having lost some wheat?

A Yes, sir."

He further testified: (Trans. page 84).

"A I said I saw a person carrying, going to the pile and carrying the grain away. That is, I seen one person there at the pile. Whether it was the same person; it could have been the same person, and it may have been a different person. I was not able to identify any particular person taking the wheat.

MR. YOUNG: That is all.

MR. CARR: Q. And you at no time saw two persons at the same time? A. No, sir."