

COPY

STATEMENT OF FACTS.

The defendants were informed against in the District Court of Boxelder County, Utah, for the crime of grand larceny. It is charged in the information that the defendants, on the 26th day of September, 1921, in Boxelder County, Utah, stole 44 sacks of wheat of the value of \$75.00, the property of one Walter B. Glenn. A trial was had, commencing February 15, 1922, and the defendants convicted of grand larceny as charged in the information, and sentenced to serve from 1 to 10 years in the Utah State Prison. From the judgment rendered on the verdict the defendants have appealed to this Honorable Court.

The evidence upon which the defendants were convicted was entirely circumstantial. One of the grounds upon which the defendants seek a reversal is that the evidence was wholly insufficient to support a verdict of guilty. At the time of the alleged larceny Glenn, the complaining witness, resided at Blue Creek, Boxelder County, on a dry farm containing 220 acres. The main public highway, known as the "Overland Trail", runs east and west along the south end of 160 acres of his farm, which was situate about four miles in a southeasterly direction from Rattle Snake Pass. The importance of the location of this pass with reference to the farm of the complaining witness will be apparent later on. In the fall of 1921, Walter B. Glenn, the complaining witness and the owner of this dry farm, harvested and threshed thereon 196 sacks or 392 bushels of Marous spring wheat. He had planted only Marous wheat. (Trans. page 57). The wheat was sacked, each sack containing about two bushels, and sacked on his land by the side of said highway and about sixteen steps distant therefrom and about 65 rods east from his house. His farm at this point was fenced by a wire fence of two wires which was about six rods back from the road. (Trans. page 17). The complaining witness did not know how many sacks of wheat there were in his wheat pile. He testified: (Trans. page 16).

"396 sacks was what I counted when I piled them up" and