

tracks with. (Trans. page 165).

J. D. Harris, a grain dealer at Tremonton, testified that the defendant, Monroe, had hauled three loads of grain between September 20 and September 24, and two of these were delivered at 5 A.M. (Trans. page 174).

Sheriff Tillywhite measured the shoe tracks with "a little weed, a little stick" introduced as Exhibit "E". (Trans. page 177). He said he broke the stick off just the length of the shoe print. (Trans. page 178).

Devos Meldrum, the clerk in Gibhart's store at Tremonton and a witness for the State, who sold Angle a pair of High shoes, testified: (Trans. page 186).

"Q You said these (Exhibit "A") look similar?

A. They look the shoes to me. Q. But you would not say they were absolutely, only look like them? A. No, just looked like them.

Q. There are a great many shoes similar. A. Yes, sir.

Q. Did you think it was late enough in the season for a man to get a pair of high-top shoes or go on wearing these rubber shoes.

A. I thought it was time to get a high-top shoe."

The officers did not have the shoes worn by Angle with them at the time they made their investigation around the wheat pile the next day and at the time they measured the shoe tracks there. It is a well known fact that many truck drivers wear rubber soled shoes to prevent their feet from slipping on the clutch and brake pedals of their trucks. The foregoing was <sup>all</sup> of the evidence introduced by the State in making this case.

The defendants' evidence tended to show that defendant Monroe was a married man with a family, had resided at Holbrook, just over the line in Idaho for a number of years, that he was a Deputy Sheriff of Oneida County, Idaho, having been recently appointed to that position; that the defendant Angle had resided in Utah and Idaho for fifteen years, that he was an ex-service man who had enlisted at Salt Lake City, Utah, in 1917, and was honorably discharged from the United States Navy, where he served for 3½ years during the world war, that he was a hard working young man 25 years of age, that he was a farmer owning his own irrigated farm near Holbrook and at that time unmarried.

That during the summer of 1921, the defendant Monroe, purchased