

Utah. (Courts). District Court
2nd Judicial District

HM 16912

Box 2 (14)

Note: In the handwriting of Jacob Smith Boreman.

Includes corrected proof and typescript.

The People vs. John D. Lee; Sentence of John D. Lee
in the 2nd District Court of Utah; Jacob Smith Boreman,
Judge [2nd trial] - Subsidiary Papers

[1876]
[Oct. 10]
[Beaver City, Utah]

7 p.

Sentence of John D. Lee, in the
Second District Court of Utah:
Jacob S. Borenman, Judge:

The court said:

"John D. Lee have you anything to say why the sentence of death shall not now be pronounced against you?"

Lee - "I have not."

The court: - "You, John D. Lee, prisoner at the bar, have, by the verdict of a jury, been found guilty of murder in the first degree. From the evidence before them, the jury could not have done otherwise than to find you guilty. The proof was clear and positive."

This is your second trial. At the trial last year, the evidences of guilt were plain, but three fourths of the jury, from some cause, were then for your acquittal.

The testimony adduced on the present trial is mainly from witnesses who could not then be obtained. But this evidence, for some cause, has been unsealed and the witnesses found ready in your case to tell what part you played in the great crime. They will hereafter have opportunities of telling what others did to aid in planning

and executing it. The fact that the evidence was not brought out on this trial to criminate some other leaders, does not show that such evidence does not exist. Much of such testimony came out on the former trial and the public in endeavoring to reach the bottom of the whole affair, will not confine itself to the evidence brought out on this trial alone. The evidence at both trials will be considered together. And according to the evidence on the former trial the massacre seems to have been the result of a vast conspiracy extending from Salt Lake City to the bloody field. And the emigrants were all along their line of travel and no where were the citizens permitted to give or sell them anything to sustain life either in man or animal, although they were in great need thereof. And the men who actually participated in the deed, were not the only guilty ones. Although the evidence shows plainly that you were a willing participant in the massacre, yet both trials taken together show that others and some high in authority inaugurated and decided upon the wholesale slaughter of the emigrants. That slaughter took place nineteen years ago. From that

time to the present term of Court there has been throughout the Territory, a persistent and determined opposition to any investigation of the massacre. Shortly after the slaughter, Judge Cradlebaugh sought to have it investigated, but he, for his efforts in that direction, was vilified beyond measure, and the ruling powers among the people caused his efforts to be entirely unavailing. The same policy has thwarted every effort from that day to this to bring the guilty to justice.

At your former trial, last year, nearly the whole power and influence of those who were supposed to have had something to do with the crime were against your conviction. This opposition to investigation was in strict accordance with their settled policy of hostility to placing the guilt where it belongs. But their efforts to smother and crush out investigation were found to avail them no longer. It was impossible to longer delay the day when the inside facts of the conspiracy should be brought out, and they have suddenly changed their policy and seem now to be consenting to your death. I do not comprehend why this is so, unless they have hoped by your conviction to appease the public indignation throughout the country, and that your conviction and death

would and the further investigation of the matter. But in these things they are greatly mistaken. This dread crime will not down and your conviction is but the beginning of the end. The demands of justice will not be satisfied until the guilty leaders in planning or executing that crime are known and brought to the bar of justice and their cases investigated in the courts and passed upon by impartial juries. It gives me no pleasure to say anything in reference to this awful deed in which you were a willing participant. You and all those who plotted this deed of blood or willingly participated therein, are no doubt guilty of a great crime, and their unoffending victims, though their mouths are closed in this world, will meet and confront you all at the bar of Almighty God, where the secrets of all hearts shall be made known. And the guilty cannot avoid that tribunal.

The world has no sympathy for perpetrators of such dastardly and cruel atrocities, and the Christian civilization of our day stands aghast at the long and persistent efforts to prevent the guilty from being brought to justice. And the long delay can only be

(2^d Sheet of
Sentence of
John D. Lee)

accounted for upon the supposition that the guilty leaders in plotting and carrying out this crime, controlled and still control the public sentiment in this Territory.

There is a sympathy for you among some people, growing out of the belief that you have been deserted by the parties to and the plotters of the crime, and allowed to be sacrificed. But yet all good men feel that your conviction is but the proper execution of the law. It is painful to think that any human being should suffer death for any reason, but outraged justice demands it. But no one that I know of, connected with the administration of the laws, takes any pleasure in your death, nor the death of any one, it is a sad duty which devolves upon them in this matter and they cannot avoid.

In accordance with the verdict of the jury and the law, it becomes my duty to pass the sentence of death upon you, and in doing this the statute requires that you may have a choice, if you desire, of three modes of execution, ~~to wit~~, namely, by hanging, by shooting or by beheading. If you have any choice or desire in this respect, you can now express it.

Lee - (the prisoner) - "I prefer to be shot."

The Court: "As you have made choice and expressed

a desire that you be executed by being shot, and it follows that such shall be the judgment of the Court. The judgment of the Court therefore is that you be taken hence to a place of confinement within this Territory, that you there be safely kept in confinement until Friday, the 26th day of January 1877; that between the hours of 10 o'clock ~~a.m.~~ in the forenoon and three o'clock in the afternoon of that day, you be taken from your place of confinement and in this district publicly shot until you are dead, and may Almighty God have mercy upon your soul."

THE SENTENCE OF JOHN D. LEE, IN THE SECOND DISTRICT COURT
OF UTAH: JACOB S. BOREMAN, JUDGE:

THE COURT SAID:

"John D. Lee, have you anything to say why the sentence of death shall not now be pronounced against you?"

Lee,- "I have not."

The Court:- "You, John D. Lee, prisoner at the bar, have, by the verdict of a jury, been found guilty of murder in the first degree. From the evidence before them, the jury could not have done otherwise than to find you guilty. The proof was clear and positive.

This is your second trial. At the trial last year, the evidences of guilt were plain, but three fourths of the jury, from same cause, were then for your acquittal.

The testimony adduced on the present trial is mainly from witnesses who could not then be obtained. But this evidence for some cause, has been unsealed and the witnesses found ready in your case to tell what part you played in the great crime. They will hereafter have opportunities of telling what others did to aid in planning and executing it. The fact that the evidence was not brought out on this trial to criminate some other leaders, does not show that such evidence does not exist. Much of such testimony came out on the former trial and the public in endeavoring to reach the bottom of the whole affair, will not confine itself to the evidence brought out on this trial alone. The evidence at both trials will be considered together. And according to the evidence on the former trial the massacre seems to have been the result of a vast conspiracy extending from Salt Lake City to the bloody field. And the emigrants were all along their line of travel and no where were the citizens permitted to give or sell them anything to sustain life, either in man or animal, although they were in great need thereof. And the men who actually participated in the deed were not the only guilty ones. Although the evidence shows plainly that you were a willing participant in the massacre, yet both trials taken together show that others and some high in authority, inaugurated and decided upon the wholesale slaughter of the emigrants. That slaughter took place nineteen years ago. From that time to the present term of Court there has been throughout the Territory, a persistent and determined opposition to any investigation of the massacre. Shortly after the slaughter, Judge Cradlebaugh sought to have it investigated, but he, for his efforts in that direction, was villified beyond measure, and the ruling powers among the people caused his efforts to be entirely unavailing. The same policy has thwarted every effort from that day to this to bring the guilty to justice.

At your former trial, last year, nearly the whole power and influence of those who were supposed to have had

something to do with the crime were against your conviction. This opposition to investigation was in strict accordance with their settled policy of hostility to placing the guilt where it belongs. But their efforts to smother and crush out investigation were found to avail them no longer. It was impossible to longer delay the day when the inside facts of the conspiracy should be brought out, and they have suddenly changed their policy and seem now to be consenting to your death. I do not comprehend why this is so, unless they have hoped by your conviction to appease the public indignation throughout the country, and that your conviction and death would end the further investigation of the matter. But in these things they are greatly mistaken. This dread crime will not down and your conviction is but the beginning of the end. The demands of justice will not be satisfied until the guilty leaders in planning or executing that crime are known and brought to the bar of justice and their cases investigated in the courts and passed upon by impartial juries. It gives me no pleasure to say anything in reference to this awful deed in which you were a willing participant. You and all those who plotted this deed of blood or unwillingly participated therein, are no doubt guilty of a great crime and their unoffending victims, though their mouths are closed in this world, will meet and confront you all at the bar of Almighty God, where the secrets of all hearts shall be made known. And the guilty cannot avoid that tribunal.

The world has no sympathy for perpetrators of such dastardly and cruel butcheries, and the Christian Civilization of our day stands aghast at the long and persistent efforts to prevent the guilty from being brought to justice.

And the long delay can only be accounted for upon the supposition that the guilty leaders in plotting and carrying out this crime, controlled and still control the public sentiment in this Territory.

There is a sympathy for you among some people, growing out of the belief that you have been deserted by the parties to and the plotters of the crime, and allowed to be sacrificed. But yet all good men feel that your conviction is but the proper execution of the law. It is painful to think that any human being should suffer death for any reason, but outraged justice demands it. But no one that I know of, connected with the administration of the laws, takes any pleasure in your death, nor the death of any one. It is a sad duty which devolves upon them in this matter and they cannot avoid.

In accordance with the verdict of the jury and the law, it becomes my duty to pass the sentence of death upon you, and in doing this the statute requires that you may have a choice, if you desire, of three modes of execution, namely: by hanging, by shooting, or by beheading. If you have any choice or desire in this respect, you can now express it."

Lee-(The prisoner)- "I prefer to be shot."

The Court:- "As you have made choice and expressed a desire that you be executed by being shot, it follows that such shall be the judgment of the Court. The judgment of the Court therefore is that you be taken hence to a place of confinement within this Territory, that you there be safely kept in

confinement until Friday, the 26th day of January, 1877; that between the hours of 10 o'clock in the forenoon and three o'clock in the afternoon of that day, you be taken from your place of confinement and in this district publicly shot until you are dead, and may Almighty God have mercy upon your soul."

ALTA BOND

This sheet is to be, as will
appear herein, corrected by me.

Just S. Boreman

Judge Boreman's Address to John D. Lee.

John D. Lee have you anything to say why the sentence of death shall not be pronounced against you?

Lee—I have not.

You, John D. Lee, prisoner at the bar, have, by the verdict of a jury, been found guilty of murder in the first degree.

From the evidence before them the jury could not have done otherwise than to find you guilty. The proof was clear and positive. This is your second trial. At the first trial before this, the evidences of guilt were plain, but three-fourths of the jury, from some cause, were then for your acquittal.

The testimony adduced on the present trial is mainly from witnesses who could not then be obtained. But this evidence, for some cause, has been unsealed and the witnesses found ready in your case to tell what part you played in the bloody crime. They will hereafter have opportunities of telling what others did to aid you in planning and executing it. The fact that the evidence was not brought out on this trial to criminate other leaders, does not show that such evidence does not exist. Much of such testimony came out on the former trial and the public in trying to reach the bottom of the whole affair, will not confine itself to the evidence in this trial alone. The evidence of both trials will be considered together and according to the evidence of the former trial the massacre seems to have been the result of a vast conspiracy extending from Salt Lake City to the bloody field. And the Emigrants had all along this line of travel been denied provisions for themselves and no where were the citizens permitted to sell them the same, although they were in great need.

And the men who actually participated in the deed, were not the only guilty ones, although the evidence shows plainly that you was a willing participant in the massacre. Yet, both trials taken together show that others and, even some high in authority inaugurated and decided upon the wholesale slaughter of the immigrants. That slaughter took place 19 years ago. From then to the present time there has been throughout the Territory, a persistent determination to hinder the investigation of the massacre. Shortly after the slaughter, Judge Cradelbaugh sought to have it investigated, but he for his efforts was villified beyond measure, and the ruling powers among the people caused his efforts to be unavailing. The same has thwarted every effort from that day to this to bring the guilty to justice.

At the former trial the whole power and influence of those who were supposed to have had something to do with the crime were against your conviction. This opposition to the investigation going on as to your guilt was in accordance with their opposition, placing the guilt where it belongs. But their efforts to smother and crush out the investigation has availed them nothing. It was impossible to delay the day when the inside facts of the conspiracy should be brought out. And they have suddenly changed their policy and seem now to be consenting to your death. I do not comprehend why this is so unless they have hoped by your conviction to appease the country. And that your conviction and death will end further investigation of the matter. But in these things they are greatly mistaken. This

dread crime will not down and your conviction is but the beginning of the end. The demands of justice will not be satisfied till the guilty leaders in planning and executing that crime are known and brought to the bar of justice. It gives me no pleasure to say anything in reference to this awful deed in which any one was a willing participant. You and all those who plotted this deed of blood or willingly participated therein, are no doubt guilty of a great crime. And the unoffending victims, though their mouths are closed in this world w meet and confront you at the bar of Almighty God, where the secrets of all hearts shall be made known. And the guilty cannot avoid that tribunal.

The world has no sympathy for perpetrators of such dastardly and cruel butcheries. The Christian civilization of our day stands aghast at the wrong and persistent efforts to prevent the guilty from being brought to justice. And the long delay can only be accounted for on the supposition that the guilty leaders in plotting and carrying out this crime control and still control the popular will in this Territory.

There is a sympathy for you among some people, growing out of the belief that you had been deserted by the plotters of the crime, and allowed to be sacrificed. But all good people feel that your conviction is but a proper execution of the law. It is painful that any human being should suffer death for any reason, but outraged justice demands it. But no person I know associated with the administration of the law takes any pleasure in your death, nor the death of any one. It is a sad duty which devolves upon them in this matter and they cannot avoid it.

In accordance with the verdict of the jury and the law, it becomes my duty to pass the sentence of death upon you, and in doing this the statute requires that you can have choice, if you desire, of three different kinds of executions, viz: by hanging, by shooting or beheading. If you have any choice or desire in this respect, you can now express it.

Lee—I prefer to be shot.

As you have made choice that you be executed by being shot, it follows that such shall be the judgment of the Court. The judgment of the Court therefore is that you be taken hence to a place of confinement in this Territory, that you there be safely kept in confinement till the 26th day of January, 1877, at between the hours of 10 o'clock a. m. and 3 o'clock p. m. of that day, you be taken from your place of confinement and in this district publicly shot till you are dead, and may Almighty God have mercy on your soul.

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