FIFTY-SEVENTH YEAR

BUILDING ROAD

**ACROSS DESERT** 

Trip Over the Eastern End of the Western Pacific Enter-

tainingly Told.

FIRST PICTURES SECURED.

C. E. Johnson, Camer Artist of Salt Lake, Tells of Work

In Nevada.

What George Gould's Lieutenants Aro Accomplishing to Their Battle With

## THE HAYWOOD **JURY RETIRES**

Reading of Judge Wood's Instructions in the Case Occupied Just One Hour.

VERY FAIR AND IMPARTIAL.

Defendant Listened with Stoicism He Has Shown All Through Trial.

HE IS CONFIDENT AND SMILING.

Court Dwelt at Length on Rule as to Conspiracy and Corroborating Evidence-Simpkins' Flight.

Bolse, Idaho, July 27-The jury in the case of William D. Haywood, secretarytreasurer of the Western Federation of Miners, charged with the murder of fomer Gov. Frank Steunenberg, retired to consider its verdict at 11:04 a. m. today and Judge Wood immidately ordered a recess of court until 2 p. m. the reading of the judge's charge and instructions required just an hour. At the end of that time the 12 jurymen filed out of the room in custody of Sheriff "Shed" Hodgins and six bail-

As they left the jury box Judge Wood

Gentlemen I would suggest that you

"Gentlemen I would suggest that you take your chair cusions with you."
Each juror acted upon the suggestion. The jury room in the courthouse had been prepared for their use.
Haywood listened with characteristic stoicism to Judge Wood's lenghty charge and when the jury retired he went back to his cell with a confident smile playing about his lips. As he was about to leave his gray-haired mother rushed up and kissed him. There was no other demonstration.
No one ventured an opinion as the jury retired as to the length of time that would be required in arriving at a verdict. The jury may report at any time of the night or day. The Idaho laws also provide that a jury may render its verdict in open court on Sunday.
At 12:18 o'clock Judge Wood gave instructions to have the jury taken out to luncheon. At that time they had been deliberating for an hour and 14 minutes and as they left the juryroom several of the 12 men were engaged in animated but apparently good natured discussion. As a matter of fact the discussion began almost before the juryroom doors were closed after the juryroom first retired.
The only discussion heard about the courthouse following Judge Wood's charge was to the effect that the defendant had received strongly the benefit of every doubt in the judge's mind as to the law applicable to the case.
The jury remained at luncheon less than 25 minutes, returning to their deliberations at the courthouse at 12:40 p. m.

FIVE FORMS OF VERDICT.

Judge Wood in his charge gave the choice of five verdicts as follows; Murder in the first degree with a penalty of death; murder in the sec-ond degree, with a penalty of 10 years

ond degree, with a penalty of 10 years to life imprisonment; voluntary manslaughter, one to ten years; involuntary manslaughter, with a penalty of one to 10 years, and not guilty.

The charge contained 66 instructions. Judge Wood dwelt at length upon the laws of conspiracy and the value of the evidence given by an accomplice.

"The law views such evdlence with distrust," he declared, "and it should be received by the jury with caution and scrutinized with great care. And and scrutinized with great care. And if from the evidence it appears that any favors have been extended by the authorities to Orchard and there is any promise relating to further favors on account of his testimony they are proper matters for the jury to take into consideration."

Judge Wood's charge was lengthy, contained more than 12,000 words and covering the case from almost avery

contained more than 12,000 words and covering the case from almost every viewpoint. It was regarded by both sides as eminently fair. If anything it was the consensus of opinion that the court leaned to the defense. In regard to the corroboration of Or-chard, Judge Wood said that the jury should test the value of such evishould test the value of such evidence by eliminating his testimony with a view to ascertaining if there is independent testimony tending to connect the defendant with the offense.

"This corroborating evidence," the court continued, "need not be sufficient of itself to establish the guilt of the defendant but it must tend in some degree to implicate and connect the defendant with the commission of the crime charged."

Further along in his charge Judge Wood, and

Wood said:
"If it is possible for you to reconcile the facts in this case upon any reasonable theory consistent with the innocence of the defendant. William D. Haywood, it is your duty to do so and find the defendant not guilty.

FLIGHT OF SIMPKINS.

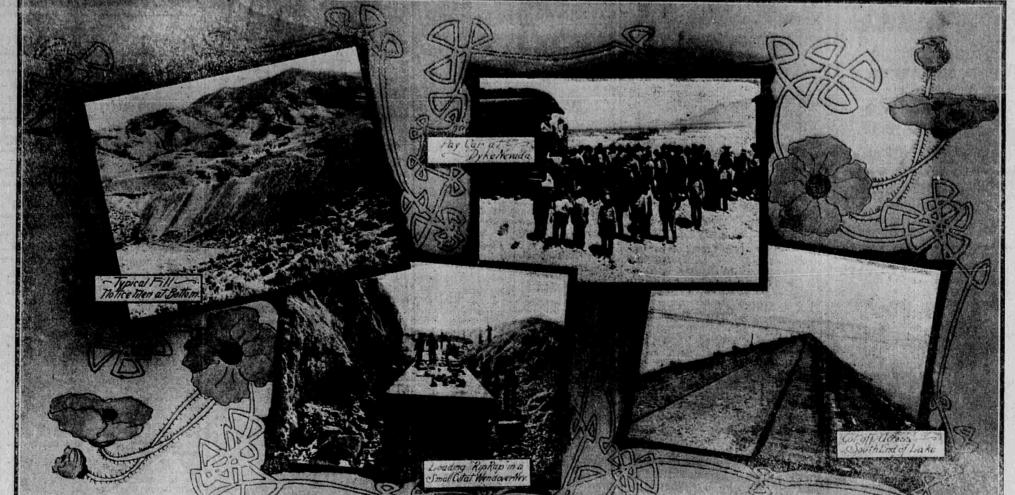
"The jury is instructed that the flight of Jack Simpkins, if you find such flight to have taken place, standing alone would not of itself be any evidence of the guilt of the defendant. But if you find that Simpkins did after the arrest of Orchard flee or become a fugitive from justice then that fact may be taken into consideration together with all the other facts of the case in determining whether or not Simpkins was a member of the conspiracy which the state has sought to prove and of which conspiracy it is claimed by the state that the defendant was a member."

The courtroom was but half filled when the jury filed in shortly before 10 o'clock. Haywood came in smiling and bowed a salutation to his wife, his mother, his two daughters and sister, the entire family being present.

As Judge Wood took the hench the 12 jurymen who sat directly in front of him wheeled in their chairs, turned their backs upon the defendant and his attorneys and listened attentively to the lengthy charge.

JUDGE CONGRATULATES JURY. FLIGHT OF SIMPKINS.

JUDGE CONGRATULATES JURY.



Photos by Johnson

## WESTERN PACIFIC ROADBED BEING BUILT ACROSS NEVADA

duced, and the argument of counsel being completed, it now devolves up-on the court to instruct you in relaon the court to instruct you in relation to the law of the case, but before doing so I desire to join with counsel for the state and the defendant in congratulating you upon the approaching termination of your duties, and I also wish to extend to you and each of you the thanks of the thanks of the court for the attentive manner in which you have thus far performed your duties as jurors in this case.

"You have been selected to this

You have been selected to this responsible position and for the performance of this important duty from

responsible position and for the performance of this important duty from a very large number of your fellow citizens after a long, painstaking and most thorough examination by able counsel. The oath which you took as jurors when sworn to try this cause imposed upon you the most solemn duty that devolves upon any citizen—that of sitting in judgment upon your fellow man.

"You have been called here at the busiest season of the year, and perhaps when many of you could not well afford to be absent from your respective vocations, but the duties here imposed are necessary and essential under our system of government, and if any of you consider the performance of this duty a burden or a hardship, you should feel fully recompensed therefor in the fact that your selection to try this case because from the very large number of jurors examined is a splendid testimonial to your citizenship and should be accepted as a guarantee that you will give this case that conscientious consideration which the law imposes upon you when you take it with you to your jury room for final action thereon." MUST IGNORE SOME EVIDENCE.

After the customary instruction as After the customary instruction as to the general duties of the jurors as to the law and evidence, Judge Wood instructed the jurors in accordance with his ruling made some days ago, after argument by counsel as to the admissibility of the evidence bearing on the connection of Steve Adams with crimes committed in northern Idaho. This evidence and also that introduced by the defense regarding deportations in Colorado and the employment of Pinkerton detectives by the mine own-Pinkerton detectives by the mine owners, Judge Wood instructed the jury not to consider on the ground that no proper connection had been made in either case.

Instructions as to the necessity for the clear and conclusive proof beyond any reasonable doubt of every material fact were followed by the quoting of the indictment on which Haywood, together with Moyer and Pettibone was arrested. On this subject Judge Woodsald:

"There are three counts in the in-dictment, but the substance of each of them is the unlawful, wilful, deliberate, premeditated and felonious killing of the said Frank Steunenberg with mal-ice aforethought. The essential ele-ments of the offense charged in the indictment consist of the following fea-

ESSENTIAL ELEMENTS OF OF-FENSE.

"First, there must have been a killing; second, that killing must have been unlawful; third, it must have been willful; fourth, it must have been deliberated upon; fifth, it must have meen premeditated; sixth, it must have been accompanied by malice in the mind of the persons or persons doing the killing; and unless these features, and each and every one of them are proven to your satisfaction beyond a and each and every one of them are proven to your satisfaction beyond a reasonable doubt, then the defendant cannot in any event be convicted of murder in the first degree."

The language of the statute is given as to murder in the first and second degree and voluntary and involuntary

MUST BE CONVINCED OF GUILT.

MUST BE CONVINCED OF GUILT.

Continuing, Judge Wood said:
"The court instructs the jury that under the law no jury should convict a citizen or citizens of crime simply because there is strong reason to believe that he is guilty, but before the jury can lawfully convict they must be convinced of the defendant's guilt beyond all reasonable doubt.

"If it is possible for you to reconcile the facts in this case upon any reasonable theory consistent with the innocence of the defendant, William D. Haywood, it is your duty to do so and find the defendant not guilty.

"I further instruct you, gentlemen of the jury, that while proof has been admitted of the commission of other crimes by the defendant and his associates, and tending to prove the commission of such other crimes by them, that it has only been admitted for the purpose of showing the existence of a conspiracy to accomplish certain objects, and that such crimes and the crime resulting in the death of ex-Judge Wood's charge and instruc-tions, delivered to the jury in the Haywood case this morning were lengthy, making altogether about 12. 000 words.

Before delivering his instructions
Judge Wood said:

"Gentlemen of the Jury—The evi-

as incidents and circumstances bearing upon the question of his guilt upon the charge of the murder of Frank Steunenberg.

MUST ESTABLISH GUILT.

"It makes no difference, however, in this case what crimes have been committed in Colorado, in the Coeur d' Alenes, or elsewhere, or who is responsible for the commission of such crimes, if any there be. The defendant cannot be convicted unless the state has established beyond a reasonable doubt that he is guilty of the felonious killing of Frank Steunenberg.

CONSPIRACY DEFENSE. "A conspiracy within the meaning of the criminal law, consists of a combination between two or more persons for the purpose of accomplishing a criminal or unlawful chief or a lawful object on unlawful manner. Ar applied to this case and under this indictment, proof of conspiracy is only proper in so far as it may tend to show a common design to encourage the particular murder charged against defendant, and it can only be introduced for the purpose of establishing the position of the members of the combine as accessoris to the crime of murder.

NON-ESSENTIALS.

"It is not essential to the formation of a conspiracy that there should be a formal agreement between the partis to do the act charged. It is sufficient if the minds of the parties meet understandingly, so as to bring about an intelligent and deliberate agreement to do such acts, and commit the crimes charged, although such agreement be not manifested by any formal words. A conspiracy in the first instance may be established by evidence having no relation to the defendant, by acts of difficult persons at "It is not essential to the formation evidence having no relation to the defendant, by acts of difficient persons at different times and places, or by any other circumstances which prove in existence. It is sufficient if the state prove beyond a rasonable doubt that such a conspiracy existed at the time of the commission of the unlawful act, and that the only defendant on trial was a member of such conspiracy. An act done by a party to it unlawful conspiracy in furtherance thereof and naturally flowing from the common design, is the act of each and all of the conspirators. And where murder is committed as the result of such a conspiracy, each one of the conspirators, even though he was not present at the place of the crime, if he aided, abetted and encouraged the commission of the unlawful acts, resulting in the crime charged.

"If the prosecution has failed to fendant, by acts of diffrent persons at

"If the prosecution has failed to prove these facts beyond a reasonable doubt, you should find the defendant

not guilty. If, however, you believe in this case from the evidence beyond rasonable doubt, that the defendant, William D. Harwood, aided, abetted, advised and encouraged the killing of Frank Stennenberg, then the defend-ant is guilty, and it would be imma-terial whether he was actually present at the time of the killing or not.

MUST CORROBORATE ACCOM-PLTE.

"The jury is instructed that the wit-ness Harry Orchard claims that he was an accomplice in the commission of the offense charged in the indigment. Un-der the statutes of this state a percon cannot be convicted of a crime upon the testimeny of an accomplice unless such accomplice in corrobor test by oth the testimeny of an accomplese thiess such accentifice is corroborated by ether evidence which of itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

"By corroborative evidence is meant additional evidence of a different char-acter to the same point.

EVIDENCE OF ACCOMPLICE.

"The law views with distrust the tes-"The law views with distrust the testinony of an accomplice on account of the motive he may have for laying the responsibility of his crime upon another when by so doing he may secure immunity for his own participation in the crime charged. For this reason the law exacts such corroboration and although the jury may believe that the testimony of an accomplice is true, still the jury could not convict the defendant upon such testimony unless they further find that the testimony of the accomplice is corroborated by other and independent evidence.

"This corroborating evidence need not

"This corroborating evidence need not sufficient of itself to establish th guilt of the defendant, but it must tend in some degree to implicate and connect the defendant with the commission of

## Pioneer Edition

Answering numerous inquiries the Desert News will state that the Pioneer Edition of the paper issued July 24th, 1907, has been re-issued in the Semi-weekly News and all missionaries will. therefore, receive a copy. Ã0000000000000000000000

The City Council That Raised The Taxes

How Each Member Stands on the New Assessment Roll Compiled

By the County Assessor.

T. R. Black (American).....\$0,000.....\$ 0.00

M. E. Mulvey (American)...... 0,090..... 0.00

L. D. Martin (American)..... 8.20

mills. The other Democrats went on record as being opposed to the increase in

create comment. It is presumed that his various saloon interests in this city are assessed under their corporation titles or it may be that the three "stalwart Amer-

taxation but voted for it so as not to unduly embarrass the administration.

icans" have their personal property in the names of their wives.

Barnes, Fernstrom and Preece voted against raising the City tax levy to 13

That Martin E. Mulvey, for instance, is not on the new assessment roll may

C. J. Crabtree (American) ...... 0,000 .....

Assessment.

TO ASCERTAIN CORROBORATION.

"In order to ascertain whether or not the testimony of the accomplice is cor-roborated, as the law provides it must the testimony of the accomplice is corroborated, as the law provides it must be before a conviction would be warranied, you should eliminate from the case the evidence of the accomplice and examine the evidence of the other witnesses with the view to ascertain if there be evidence tending to connect the defendant with the offense. If there is, the accomplice is corroborated; if there is no inculpatory evidence there is no corroboration, though the accomplice may be corroborated in regard to any number of facts sworn to by him.

"In this case the state relies upon chromstantial evidence to establish the connection of the defendant with the conspitacy sought to be proven by tha evidence taken in connection with the direct testimony of the accomplice, Harry Orchard.

"In order to justify an inference of legal guilt from circumstantial evidence the existence of the inculpatory facts must be absolutely incompatible with the innocence of the accused upon any rational theory, and incapable of explanation upon any reasonable hypothesis other than that of his guilt.

AS TO ORCHARD.

AS TO ORCHARD.

AS TO ORCHARD.

"If you belives from the evidence that the witness Harry Orchard was induced or influenced to become a witness and to testify in this case by any promise of immunity from prosecution or punishment, or by any hope held out to him that if he testified against the defendant he would not be prosecuted, then the jury should take such facts into consideration in determining the weight which ought to be given the testimony so obtained. Such testimony should be received by the jury with caution and scrutinized with great care.

"And, if from the evidence it appears that any favors have been ex-

"And, if from the evidence it appears that any favors have been extended by the authorities of the state of Idaho to the witness, Harry Orchard, and there is any promise, either expressed or implied, relating to furthere favors to be received by him on account of his testimony in this case, then these are proper matters for the consideration of the jury, as affecting the credibility of his testimony.

in a criminal case is made a competent witness in his own behalf, and where he testifies, as in this case, becomes the same in all respects as any other wit-ness, and his testimony must be tested by the same rules or tests that are ap-plied to other witnesses, and the jury may take into consideration the inter-est he may have in the case in de-termining the weight to be given to his testimony.

IN JURY'S HANDS.

SCOUT CRUISER SALEM

NEW TYPE OF WAR VESSEL

Quincy, Mass., July 27.—A new type of war vessel and one that is expected to add greatly to the efficiency of the navy in time of war, is to be launched here at about noon today from the yards of the Fore River Shipbuilding company. The vessel is the scout cruiser Salem, whose duty it will be in time of war to look for and report the movements of an

enemy.

The Salem is to have a speed of 24 knots. This is greater than that of any cruiser in the navy. Several scout boats now building for the British navy are to have slightly greater speed but the American scout is expected to maintain her sale in any

pected to maintain her galt in any

sort of weather and will have twice the coal capacity of the British ship, thus giving her a much greater radius

of action.

No other vessel in the navy has as high a free-board as the Salem. This insures good sea-going qualities, gives stability and provides a safe and dry vessel under all weather conditions. The Salem is 423 feet, 2 inches long, has a breadth of 46 feet, 8 inches and a draft of 19 feet, 1½ inches. Her displacement, fully loaded, is 4,640 tons. Her battery will consist of three 5-inch rapid-fire guns and she will have two submerged torpedo tubes.

Propelling power for the new cruis-er will be supplied by Curtis marine turbines and there will be 12 water tube boilers. Quarters for 18 officers and 314 men will be provided.

SCULPTOR J. Q. A. WARD.

Sues for Work Done on Model of

Statue of Gen. Sheridan.

report the movements of an

"In conclusion, you are to determine the question as to whether or not the defendent killed and murdered Frank Steunenberg as charged in the indictment, or aided and abetted such killing. If so, you should find him guilty; if not, you should find him not guilty. "Under the indictment in this case the defendant may, if the evidence warrants it, be convicted of murder of the first degree, murder of the second degre, or manslaughter."

"Gentlemen of the jury, the court now delivers this case into your hands. It is your duty to consider it and deliberate upon it without fear and without favor. If the evidence shows that any individual or individuals, any person in any private or official capacity, or any class or classes of people are interested in any way in the conviction or acquittal of this defendant, such fact or facts should not be considered by you or have any influence upon your deliberations. You are here to try and determine this case between the state of Idaho and the defendant, William D. Haywood.

"I herewith submit for your consider-"I herewith submit for your consider-ation appropriate forms of verdict suit-able to any conclusion you may reach."

## MINERS' MAGAZINE.

"Certain articles have been received in evidence from the Miners' Magazine in evidence from the Miners' Magazine for the sole purpose of determining whether or not any motive existed upon the part of the defendent to participate in the offense charged in the indictment and not for the purpose of establishing in any wise the commission of such an offense.

"The jury is further instructed that

Total Tax.

Salt. Sand and Rocks. Since the first announcement of the commencement of actual track-laying

on the Western Pacific this city has been getting but brief information regarding progress of work, but Salt Lakers can hardly be expited to realize just how much has been accomplished. In olden days the building of a transcentinental railroad was something followed each day by inhabitants of the territories to which it was to afford facilities. The present day is one of big things and the big things of one day are forgotten in consideration of those of the next. One way—the only way—to appreciate just what has been done by the 2,000 men employed by Gould to rush his line from this city to the coast is to follow the rails from Sixth West to the present erminus of the road; 150 miles out on the desert. Trains are now running to Dyke, 139 miles from Salt Lake. Construction and material trains leave this city every day; occasionally T. J. Wyche, superintendent of the Western Pactific in this city, takes a run over the line in his private car, and once a month the pay-car goes out to distribute hard earned, well earned dollars among the camps cast along the line. habitants of the territories to which it

IS TAKING MILLIONS.

Within a year or so fast passenger trains with palace cars will be pulling out of the proposed Gould depot yards along Fourth West, bound for San Francisco. The Western Pacific is being built quietly but surely. It is taking millions and the patience of the most skilled engineers to build it. Along the route selected nature seems angry at the invasion of the steel rails and determined to make their way difficult. At times the fight has almost been a victory for nature but money and men make a combination nothing can withstand for any considerable length of time. Gould has nearly 2,000 laborers at work on the eastern division, and is distributing \$150,000 a month among these laborers. Each twenty-mile stretch is in charge of an engineer and the whole eastern division in charge of Mr. Wyche, with headquarters in this city. A dozen monstrous steam shovels with a capacity of loading \$0 cars a day are cutting their way through gulch and hill. Huge engines of the "hound" type are running back and forth over the track already laid rushing long trains loaded with material to the front and bringing in the empty cars. Away out on the desert across the Utah line the scene of activity and bustle is forging further westward each day; the traces of abandoned camps like milestones along the road tell the story of progress in days and weeks.

There's always something fascinating about the building of a transcontinent-

in days and weeks.

There's always something fascinating about the building of a transcontinent-al line, and the undertaking under discussion has no end of interesting phases and features. These are told in an entertaining manner by Chas. E. Johnson, who has just returned from a picture-taking trip to the end of the line and 50 miles beyond. In company with Mr. Wyche, out on a trip of personal inspection, and the payclerk, Mr. Johnson had an excellent opportunity to study the building of a railway by watching it being constructed, and he overlooked none of the features worth while.

WHAT C. E. JOHNSON SAYS.

"The Western Pacific?" he commences "Doesn't it sound good to you? Doesn't it sound like the good old days when the Union Pacific and Southern Pacific were being built? I'll wager that not one out of 50 who will read this has any reasonably correct or comprehensive idea of what is going on towards the construction of the Western Pacific. Before the line reaches the coast it will have cost over \$5,000,000. This total will be reached without a doubt; \$150,000 is being distributed every month at the present time. One tunnel, nearly \$6,000 feet long, will cost a million dollars. The money being paid out to the 1,500 and more laborers along the line is coming into Salt Lake. The road at present is laid about 150 miles out, but trains are being run to Dyke, Nev., only, a distance of 129 miles from Salt Lake.

SKIRTING THE LAKE. "The Western Pacific?" he com-

SKIRTING THE LAKE.

Sixth West in this city you can see long trains of cars marked "Western Pacific." This is the supply point and division point for the eastern half of the line and it is from the offices here that the immense undertaking of crossing the desert and going through mountain ranges is being directed and managed. With Mr. Wyche I had the pleasure of taking the trip over the line, and it was a most instructive trip I can assure you. The route through Utah has been told and retold, so little space and time need be devoted to this. After going due west for seven miles and passing Garfield the trucks pass Lake View, held in fond memory by many who used to bathe there. A peculiar change has been that occurring along the southern end of the lake. A year ago the land was high and dry but the tracks today run directly through big stretches of water. The that the immense undertaking of cross-

Statue of Gen. Sheridan.

New York, July 27.—Announcement is made today that J. Q. A. Ward, the sculptor, has authorized his attorneys to bring suit for \$35,000 for work done on a model of a statue of Gen. Philip Sheridan, which was rejected by a congressional committee.

According to the announcement, the model on which Mr. Ward worked for a number of years, pleased artists and members of the commission who viewed it. Then Mrs. Sheridan was asked to view it, and, it is alleged, following her disapproval, the model was rejected.

Mr. Ward, it is stated, hopes to prove through the suit that the statue designed by him is worthy of acceptance. DOCK WORKERS' STRIKE.

No Hope of Immediate Settlement of One at Duluth.

One at Daluth.

Duluth, Minn., July 27.—All hope of an immediate settlement of the dock workers' strike in Duluth appears to be at an end. At a meeting of the strikers today in Lincoln park, Mayor Cullum read the answer of the U. S. Steel corporation's officials to the organization of the strikers. The steel company refused to treat with the men as a union. The company asks that the men go back at the old scale of wages and on the old open shop plan. No mention of a possible increase was made. The men, on hearing the communication, voted on the question of returning to work, and decided that they would remain out.

"On tracks along First South from through big stretches of water. The water is not deep and the track-hed high so the change is causing no worry. After running parallel with the Salt Lake Route tracks along the south end of the lake the parting point is where the Western Pacific tracks approach the west shore. There are going to be some great races along that

STATIONS IN DESERT.

"It is but a few minutes' ride now and the train is out on the Jesert. Nothing but a few plants characteristic of deserts can be seen. The first point to be reached is Grantsville. Timple is the next point and Delie follows. This spring furnishes all the water used on the line further to the west; the precious stuff is hauled over the line to the scattered camps along the line in big tanks laid on flat cars. Lack of water is a great detriment to the country pierced by the new road; the land

(Continued on page 10.)