

An unused horse may "eat his head off" before a buyer is found—unless the owner "believes in advertising."

DESERET EVENING NEWS.

Almost every train that comes into the city brings people who will eagerly read the board and room ads.

28 PAGES—LAST EDITION

SATURDAY JULY 27 1907 SALT LAKE CITY UTAH

FIFTY-SEVENTH YEAR

THE HAYWOOD SUBJUREES

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.

Boise, Idaho, July 27.—The jury in the case of William D. Haywood, secretary-treasurer of the Western Federation of Miners, charged with the murder of former Gov. Frank Steunenberg, retired to consider its verdict at 11:04 a. m. today and Judge Wood immediately ordered a recess of the 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 bailiffs.

As they left the jury box Judge Wood said:

"Gentlemen I would suggest that you take your chairs custom with you."

Each juror acted upon the suggestion. The jury room in the courthouse had been prepared for their use.

Judge Wood listened with characteristic stoicism to Judge Wood's lengthy charge and when the jury retired he went back to his cell with a confident smile playing about his lips. He was not even disturbed when the 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 an 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 jurors were closed after the jurymen 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 1:40 p. m.

FIVE FORMS OF VERDICT.

Judge Wood in his charge gave the jury the choice of five verdicts as follows: Murder in the first degree with a penalty of death; murder in the second degree, with a penalty of 10 years to life imprisonment; voluntary manslaughter, with a penalty of one to 10 years, and not guilty.

The charge contained 86 instructions. Judge Wood dwelt at length on the laws of conspiracy and the value of the evidence given by an accomplice.

"The law views such evidence with distrust," he declared, "and it 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 extended by the defendant to Orchard and there is any promise, relationship or other favor 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 15,000 words and covering the case from almost every viewpoint. It was regarded by both sides as eminently fair. If anything more was to be said in the trial, the court leaned to the defense. In regard to the corroboration of Orchard, Judge Wood said that the jury should test the value of such evidence by allowing the 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, "must 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 said:

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

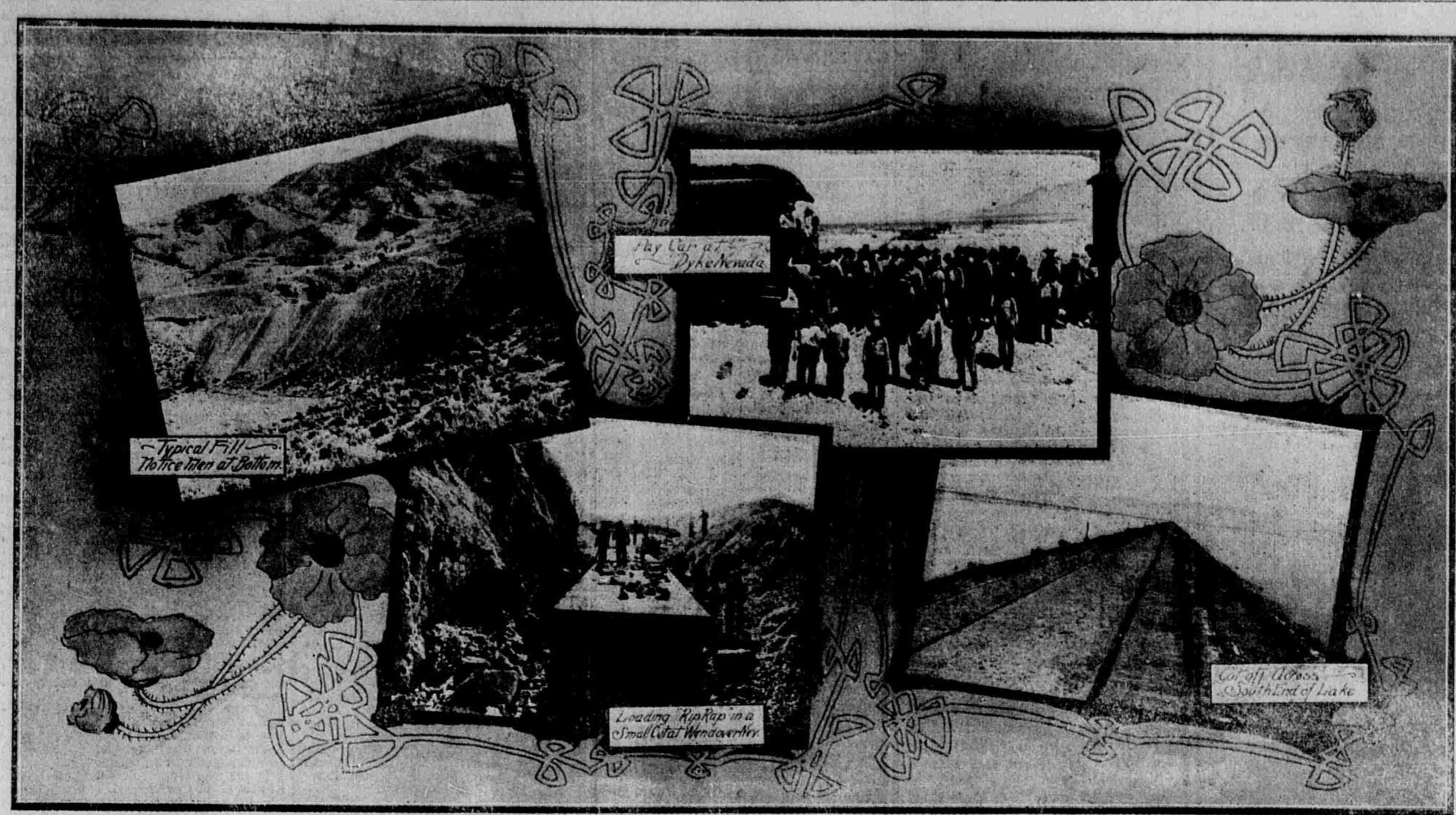
FLIGHT OF SIMPKINS.

"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 reason for allowing the testimony of the defendant. But if you find that Simpkins fled after the arrest of Orchard fee 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 and of which conspiracy it is claimed by the state that the defendant was a member."

JUDGE CONGRATULATES JURY.

Judge Wood's charge and instructions, delivered to the jury in the Haywood case this morning were lengthy, making altogether about 15,000 words. Before delivering his instructions Judge Wood said:

"Gentlemen of the Jury—The evi-



WESTERN PACIFIC ROADBED BEING BUILT ACROSS NEVADA

Photos by Johnson.

part of the evidence in the case, and 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."

MUST CORROBORATE ACCOMPLICE.

"The jury is instructed that the witness Harry Orchard claims that he was an accomplice in the commission of the crime charged in the indictment. Under the statutes of this state a person cannot be convicted of a crime upon the testimony of an accomplice unless such accomplice is corroborated by other evidence which, in and with 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."

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 act, or the lawful object of an unlawful manner. An 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 accessories 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 parties 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 different persons at different times and places, or by any other circumstances which prove its existence. It is sufficient if the state prove beyond a reasonable 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 an 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 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 a reasonable doubt, that the defendant, William D. Haywood, aided, abetted, advised and encouraged the killing of Frank Steunenberg, then the defendant is guilty, and it would be immaterial whether he was actually present at the time of the killing or not."

TO ASCERTAIN CORROBORATION.

"In order to ascertain whether or not the testimony of the accomplice is corroborated, as the law provides it must be before a conviction would be warranted, 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 circumstantial evidence to establish the connection of the defendant with the conspiracy sought to be proven by the 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.

"If you believe 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 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 further 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."

MINERS' MAGAZINE.

"Certain articles have been received in evidence from the Miners' Magazine for the sole purpose of determining whether or not any motive existed upon the part of the defendant 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

Pioneer Edition

Answering numerous inquiries the Deseret 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.

The City Council That Raised The Taxes

How Each Member Stands on the New Assessment Roll Compiled By the County Assessor.

	Assessment.	Total Tax.
T. R. Black (American)	\$0,000	\$ 0.00
C. J. Crabtree (American)	0,000	0.00
M. E. Mulvey (American)	0,000	0.00
A. J. Davis (American)	185	6.90
L. D. Martin (American)	220	8.20
E. G. O'Donnell (American)	225	8.39
W. Mont Ferry (American)	3,225	120.29
A. R. Carter (American)	7,455	278.07
Thomas Hobday (Republican?)	70	2.61
J. H. Preece (Republican)	2,650	98.84
F. S. Fernstrom (Democrat)	572	21.33
John Holley (Democrat)	668	24.91
W. J. Tuddenham (Democrat)	1,930	71.98
R. S. Wells (Democrat)	3,765	140.43
A. F. Barnes (Democrat)	6,231	232.41

Barnes, Fernstrom and Preece voted against raising the City tax levy to 13 mills. The other Democrats went on record as being opposed to the increase in taxation but voted for it so as not to unduly embarrass the administration.

That Martin E. Mulvey, for instance, is not on the new assessment roll may 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 Americans" have their personal property in the names of their wives.

BUILDING ROAD ACROSS DESERT

Trip Over the Eastern End of the Western Pacific Entertainingly Told.

FIRST PICTURES SECURED.

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

What George Gould's Lieutenants Are Accomplishing in Their Battle With 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 Lake can hardly be expected to realize just how much has been accomplished. In seven days the building of a transcontinental 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 being regarded as the things 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 terminus of the road, 150 miles out on the desert. Trains are now running West 100 miles from Salt Lake. Construction and marine painting is taking place every day; occasionally T. J. Wyche, superintendent of the Western Pacific in this city, takes a run over the line in his private car, and once a month the pay-car makes a complete tour of the camps east along the line.

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 with a grandeur 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. Gould has considerable length of time. Gould has nearly 2,000 laborers at work on the eastern division, and is distributing \$100,000 a month among these laborers. Each twenty-mile haul requires a large amount of material to the front and bringing in the empty cars. Away out on the desert across the Utah line the recent months have been forging further westward each day; the forging of abandoned camps like milestones along the road tell the story of progress in days and weeks.

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 gait 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 long, 23 feet high, has a breadth of 46 feet, 8 inches and a draft of 19 feet, 1 1/2 inches. Her displacement, fully loaded, is 4,640 tons. Her battery will consist of 12 such rapid-fire guns and she will have two submerged torpedo tubes.

Propelling power for the new cruiser will be supplied by Curtis marine turbines and there will be 12 water-tube boilers. Quarters for 15 officers and 214 men will be provided.

SKIRTING THE LAKE.

"On tracks along First South from Sixth West to this city you can see long tracks and the tracks of the 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 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 interesting trip. 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 the first of the tracks, the 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 and the tracks today run directly through big stretches of water. The water is not deep and the track-bed high so the change is causing no worry.

DOCK WORKERS' STRIKE.

No Hope of Immediate Settlement of One at Duluth.

Duluth, Minn., July 27.—All hope of an immediate settlement of the dock workers' strike in Duluth appears to be at an end. After 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.

STATIONS IN DESERT.

"It is but a few minutes' ride now and the train is out on the desert. Nothing but a few plants characteristic of deserts can be seen. The first point to be reached is Grants, a little station opposite Grantsville. Timpie is the next point and the tracks pass Lake View. This spring furnishes all the water used on the line further to the west; the precious stuff is dangled over the line to the scattered camps along the line in his tank cars. The water is a great detriment to the country pierced by the new road; the land

(Continued on page 10.)