

# Attorneys for Haywood Question the Talesmen

## Refer to Letters of Roosevelt and the Speeches on Labor Made by Taft

Continued From Page 1, Column 4.

He had read them for a time, until he got tired of them, and since then had paid no attention to them.

### ATTENDANCE IS MEAGER

The lack of excitement in Boise over the trial was manifested clearly by the attendance in court this morning. The doors of the courtroom were not opened until a few minutes before 10 o'clock, and then there were only a dozen men waiting to get in, and some of them were talesmen. As the session progressed the room filled up, but there was never a crowd. It is a big, rectangular room, about 45 feet wide and 60 feet long, with bare plastered walls devoid of any decoration, and furnished with hard wooden benches like the pews of old-fashioned country churches.

Across the center of the eastern end the bench of the judge runs with the clerk at his left, and the jury directly in front of him. The jury box is simply a double row of big oak arm chairs, carefully bolted down to prevent unseemly tipping back by bored jurors. An iron railing runs in front of each row of chairs, a resting place for tired feet, and beside each chair there stands a thoughtful recognition of the prevailing tobacco habit of the men of Idaho in the shape of a substantial blue and white spit box. Immediately in front of the jury box there are two rows to accommodate the attorneys for the prosecution and defense, with the stenographers placed between them, and the witness chair back of the stenographers. A flock of newspaper men from outside of Boise have been assigned to seats along the rail and just inside the bar.

### FEW WOMEN IN COURT

One striking difference from a New York courtroom during a sensational murder trial was the absence today of a sympathetic crowd. The women of the jury apparently lack the morbid curiosity possessed by their sisters in New York or else they have opinions of such character regarding Haywood, Moyer and Pettibone that they do not care to go to court even to see the proceedings. Whatever the cause, the pity patrol was absent.

Except for his counsel the only friends of Haywood who were present were his wife and two daughters. Mrs. Haywood, who has lived a pathetically quiet existence since the death of her youngest daughter nine years ago, was brought into the courtroom in a wheel chair, accompanied by the nurse who is always with her. Her eldest daughter, aged 16, sat beside her throughout the trial, and the little girl sitting most of the time in the lap of the nurse. They gave close attention to the proceedings and seemed even more interested in the attitude of the prospective jurors than was any member of the family. Their daughters were not present at the afternoon session.

### USE CALIFORNIA METHODS

The selection of jurors in Idaho follows the California procedure. As soon as court was opened Judge Wood heard questions from the men who did not want to serve and let four of them go. They were the only talesmen who made the request, and each gave as his reason the prospect of serious damage to his business interests or a question of health relative to himself or to that of some member of his family. Then the clerk read the names of twelve men and they took their seats in the box. Attorney Hawley for the prosecution then began the examination. But he was not to examine the talesmen. Instead of the defense having its turn at the examination Hawley went on with the next talesman. In this fashion the prosecution examined the twelve men. Occasionally the defense resisted a challenge, and then it had the opportunity to question the examination of the talesman, but it did not begin examination on its account until the attorneys for the state had found the twelve men satisfactory to the prosecution. It was not until ten peremptory challenges. But these will not be exercised until both sides have "passed for cause."

### RANCHMEN AS TALESMEN

It was a hard headed, self possessed looking set of men who responded to the call of the clerk. Most of them were dressed in such a fashion that an average man unaccustomed to the country and seeing them for the first time would have put all of them down as being ranchmen and farmers. The broad brimmed, soft felt hat that invariably is worn by the talesmen formed a part of the attire of nearly all of the talesmen, and three or four wore the turned up overalls seen usually on men accustomed to much time in the saddle. Nearly all were in middle life or beyond, bronzed by exposure to the brilliant Idaho sun, rough looking, perhaps, but self-reliant and sturdy. It soon appeared, however, that most of the first twelve were busy men; several of the twelve were developed at once that the reluctance to serve on the Haywood jury, of which there has been much talk here, did not in fact exist. These men regarded it as serious business, one which they were bound to undertake at the call of the court, and with perhaps a single exception they responded to the examination in a manner which showed them to be honestly desirous of revealing to the court their real feelings.

### WORK OF PROSECUTION

It was disclosed promptly by the line of Attorney Hawley's questions that the state was far from its intention to rely in the main on the confession of the talesmen's opinions on capital punishment, knowledge of the case obtained from reading the newspapers, or against the defendant, and that sort of thing were gone over, and then Hawley went into the field of circumstantial evidence. He asked the talesmen to testify as to whether the fact that the proof offered by the state might be circumstantial would have any effect on the talesman's verdict. Then, too, he wanted to know whether the circumstantial evidence which Moyer and Pettibone were brought to Idaho from Colorado would have any effect on the juror in forming his ultimate opinion.

The indictment charges that the three talesmen were actually in Caldwell at the time of the murder, although it is still somewhat debatable whether they were really there. Their connection with the case in this regard must, therefore, except for Orchard's story, be shown by circumstantial evidence.

### EXAMINATION IS BEGUN

The first man examined was A. L. Ewing, a tall, gray bearded war veteran with the bronze button of the Grand Army of the Republic in his coat lapel. He affirmed that he had served recently as a juror in a murder trial, but that fact did not seem to influence the prosecution. Like all the rest of the

talesmen, Ewing said that he had read and talked a good deal about the case, but he declared that he had formed no opinion about it, "although that sounds like a good deal to say," Ewing added.

Attorney Hawley questioned Ewing closely about the newspapers that he had read, as he did all the others. But Ewing had seen only the Boise papers and knew nothing of the socialist campaign. He was James L. Ayres, a farmer from the lower end of the county, who told about the socialist newspapers that had been sent to him. He had come to Idaho from Tennessee in 1881, he said, and had lived on his present farm ever since. Hawley's examination as to these papers brought out the first opposition from the defense. When Ayres was asked how long the free distribution of these papers had gone on, Attorney Clarence Darrow, of counsel for the defense, objected on the ground that the question was too broad, and contended that the state could go into the question only as it related to that particular juror.

### COURT MAKES RULING

Judge Wood had been paying hawklike attention to every word, and the moment Darrow had stated his objection he was ready with his ruling. "The court is disposed to give considerable latitude to both sides in the examination of jurors," said Judge Wood. "The objection is overruled." Despite the fact that Ayres said that he had formed an opinion as to the guilt or innocence of Haywood, and also that he had read the socialist papers as he had become tired of them, Attorney Richardson, for the defense, insisted the challenge for cause which was made by the prosecution. Ayres said that he guessed that he could give Haywood the same kind of a trial that he, Ayres, would like to have if the situation were reversed. The challenge, however, was allowed.

It was the fact that they had formed opinions which bowed out most of the rejected men. Only one, an extraordinary individual, with a bald head and an amazing mustache nearly a foot wide, was allowed to sit on the jury for another reason, and that was that he had objections to capital punishment. When the morning session was ended two men had passed the siege of the prosecution.

### SENATOR BORAH EXAMINES

The afternoon session went much more satisfactorily. It took only a few minutes to satisfy the prosecution as to the remaining ten. United States Senator Borah, of counsel for the defense, did some of the examining at the afternoon session, and although he went over the same ground covered by Attorney Hawley he concluded much more rapidly. And he found talesmen who had not formed opinions and were prepared to serve. At 3:30 o'clock Attorney Richardson took a hand in examining for the defense. He showed the talesmen that the prosecution had anything to do with labor troubles with the opposite side could not sit on the jury so long as the defense had a peremptory challenge left.

In the hour and half consumed before the talesmen were exhausted, Richardson had put half a dozen men through the mill, and each one had been accepted on the same line of questions. He asked the talesmen whether they knew of the Cour d'Alene troubles of 1892 and 1893, whether they had any bias for or prejudice against labor organizations in general, and especially the western federation of miners; whether they belonged to or had anything to do with the Citizens Alliance or similar organizations, and whether they had been connected with any detective bureau or had performed any detective work or had been connected with any sheriff's or the office of any public prosecutor. Then Richardson asked if they had been connected with any mine owners' association.

### REFERS TO SECRETARY TAFT

The speeches of Secretary Taft in Pocatello and Boise last year came in for consideration, and Richardson asked each talesman whether he had heard it or read it, and if so what he remembered of it, and whether the utterances of the Secretary on either occasion had any weight with him, and whether would it influence his verdict if he were selected for the jury. Both of those speeches were law and order talks that were common in for much criticism from labor organizations since Richardson also wanted to know whether the talesmen had made any contributions other than taxes for anti-labor purposes. In the same way he took up the message of Governor Gooding to the last legislature, in which Gooding detailed what he had done toward prosecuting the alleged murderers of Steunenberg. Richardson then questioned the talesmen as to why the legislature had made an appropriation for carrying on the prosecution. In all of the questions he wanted to know whether the talesman would be affected by the question of authority in forming his verdict. The president's "undesirable citizen" letter was the subject of further questions along the same line, and as in the case of the Taft speeches every talesman swore that he would not be in any manner affected by what the president had said.

### REPUBLICANS RAP ROOSEVELT

If what these talesmen said can be taken as a criterion there has never been any real occasion for the denunciation that the president's letter called forth from the eastern friends of Moyer, Haywood and Pettibone. Three talesmen said emphatically that they believed that it was not the president's business to concern himself with this trial, and every one who so expressed himself declared that he was a republican. Richardson went into the matter of relations between the talesmen and the attorneys for the prosecution, the social relations of their families, their own membership in lodges and that sort of thing. Two talesmen said that they were Odd Fellows, and Richardson asked them whether they had read the resolutions passed by the Odd Fellows at Meridian, denouncing the murder of Governor Steunenberg and demanding the prosecution of the assassins. He carried this matter of possible association with the prosecution even to the question of church membership, and when one talesman said that he was a Baptist Richardson provoked a gust of laughter by asking whether any of the prosecuting attorneys were his brothers in the church.

### LARGE VENUE FOR MONDAY

The day closed with 11 men in the box, three of whom had been passed for cause by both the prosecution and the defense. The other eight men had not been examined by the defense, but nevertheless they were all dismissed together in the care of bailiffs until the reassembling of court on Monday afternoon, when a new venire of 100 men is to be present. But even in the case of the three men passed there is no certainty that they will be sworn in as jurors, for they still have to pass the ordeal of peremptory challenges.

As a whole the events of the day emphasized the fact that this is a trial of strength between organized labor

# Thalmann Reports Financials of the Company Governor Gillett Will Hasten Northward Intends to Keep in Touch With the Situation

## Gross Earnings in 1906 Amounted to \$5,955,786.33

Ernest Thalmann, president of the United Railways investment company of New Jersey, which owns the United Railroads of San Francisco and the Philadelphia company, has submitted an annual report to the stock holders of the investment company for the year ending December 31, 1906. Coupled with the report is a tabulated comparison of the gross income of the United Railroads of San Francisco for 1906 and 1905. The operating expenses and taxes were \$2,114,590.89. The net earnings on the business were \$2,841,195.23 and there was other income that swelled this amount to \$2,850,557.07. The income applicable to fixed charges was \$2,893,326.94. The fixed charges were \$1,580,702.14, which left the net income at \$1,312,623.80, and from this is deducted improvements, betterments, etc., leaving the final net income \$877,145.98.

The surplus for the year applicable to the payment of dividends on common stock was therefore \$877,145.98, but President Thalmann reports that no cash dividends were paid by the United Railroads of San Francisco during the year 1906. This is explained by the statement that "all its receipts over and above fixed charges and all the surplus earnings of the Philadelphia company, which were paid by it, have been retained by the respective companies for their respective corporate purposes."

An interesting paragraph in President Thalmann's report relates to the prospects of the investment company, which is as follows:

"When it is considered that in the course of the year 1906 the earnings of the United Railroads of San Francisco have been subjected to the earthquake, the strike of its employees and the consequent general depression, they offer a most encouraging promise for the future and justify the hope that at no distant day payments of cash dividends will be resumed."

Some general information concerning the finances of the United Railroads of San Francisco is contained in the following paragraphs: Both the gross and the net earnings of the United Railroads of San Francisco had shown excellent results up to the 15th day of March. On that date the earthquake occurred, which resulted in a disastrous fire and involved the company in a great loss of property, including the cable power houses and severe injury to the cable conduits. That company reports that it has now installed the overhead trolley system on practically all the important roads, and that it has been able to place in operation as rapidly as the city completes certain necessary street improvements.

The United Railroads of San Francisco furnished to this company show that, between December 31, 1905 and March 1, 1907, there had been expenditures for the reconstruction of its lines and plant, including improvements and betterments and the physical loss resulting from the earthquake and fire, a total of over \$4,000,000. The reports received from the officials of the United Railroads of San Francisco, and made up to March 1, 1907, had been the property of the company, and that its current liabilities, as evidenced by its balance sheet dated February 28, 1907, did not, on that date exceed the amount carried by the company. The conditions existing in San Francisco, created by and consequent upon the earthquake and fire, also led to a strike of the railroad company, involving practically all its employees, which was terminated on September 5, 1906. Although the strike terminated in a resumption of work on the part of the company's employees, the terms of adjustment originally offered by the company and the terms actually accepted, directly and indirectly, considerable financial loss to that company.

The decision of the arbitrators established a rate of wages for a period terminating May 1, 1907. Negotiations are pending between the company and the officers of the company to extend the adjustment beyond that date, and it is hoped that an arrangement, fair and just to both the employees and the company, will be amicably reached. In connection with plans intended to provide the United Railroads of San Francisco with money to be required by it in the future for construction and improvement of its lines and plant, the directors of your company to vote the stock holdings of this company in the matter of the proposed increase of the capital stock of that company by the creation of an issue of \$5,000,000 of first preferred stock, at a rate of interest at the rate of not less than 6 per cent per annum, and to be cumulative. Of this issue the first preferred stock is presently unissued, and your directors have authorized a subscription thereto by your company, at par, for cash.

The dividends on \$20,000,000 preferred stock of the United Railroads of San Francisco are reported to be in arrears from March 31, 1906. There are outstanding dividends on the stock of the United Railroads of San Francisco amounting to \$550,000.

and the state of Idaho. The labor union friends of Moyer, Haywood and Pettibone all over the country have voluntarily assumed that position, and the defense itself showed that that was the view it took of the matter. Richardson brought up the fact that the talesmen in his examination of talesmen by demanding to know whether the fact that Haywood was a socialist would in any manner influence them in their verdict. Every man declared vigorously that it would not. They said, too, that the fact that Haywood was a prominent official of the miners' federation would not influence them.

Haywood watched the proceedings today with more composure than he displayed in the brief session of yesterday. But it was only at intervals that he could bring himself to face the talesmen squarely. Most of the time he sat with his face averted. His eyes rolled furtively to one side to observe the divided faces of the talesmen. The man who declared that they had formed opinions interested him to the point of gazing directly at them. Then the corners of his mouth dropped and a queer, hard expression came over his face as if he understood only too well that the person was against him.

The last of the men to thus express himself was Captain Yates, president of the Bank of Commerce of Boise, an old ship master, who spent 20 years at sea in sailing vessels before he came to Idaho 10 years ago. Captain Yates had been passed by the prosecution, but when Richardson got after him to make the opinion of one talesman said that he was a Baptist Richardson provoked a gust of laughter by asking whether any of the prosecuting attorneys were his brothers in the church.

LARGE VENUE FOR MONDAY. The day closed with 11 men in the box, three of whom had been passed for cause by both the prosecution and the defense. The other eight men had not been examined by the defense, but nevertheless they were all dismissed together in the care of bailiffs until the reassembling of court on Monday afternoon, when a new venire of 100 men is to be present. But even in the case of the three men passed there is no certainty that they will be sworn in as jurors, for they still have to pass the ordeal of peremptory challenges. As a whole the events of the day emphasized the fact that this is a trial of strength between organized labor

LOS ANGELES, May 9.—Governor Gillett has canceled all engagements, including his visit to San Diego, and will return to Sacramento tomorrow evening in order to be in close touch with the strike situation in San Francisco.

The Seventh regiment is still under "assemble" orders and the 12 companies are ready to move on San Francisco at an hour's notice. "I am still optimistic in regard to the calling out of state troops so far as the San Francisco strike is concerned," the governor said today. "My advice from the north continues to indicate a peaceful end to the controversy now in progress there between the United Railroads and its operating employees. Of course, no one can foresee the end, but I have not lost confidence in the ability of the union, and I would like to prevent anything more serious than has already occurred."

"I have received no word from Mayor Schmitz, and expect none from him in regard to the present trouble. Neither is it true that I am in communication with General Frederick Funston of the regular army, as has been published. My advice from the scene are from Adjutant General J. B. Lauck, and he will continue to keep me posted. "I am glad to see that the police force of San Francisco has the situation in hand. This means that, so long as the city's officers keep their hands upon the throttle state troops will not be necessary. I hope that this view will be borne out."

PORTERVILLE, May 9.—Company E, Sixth regiment, is in readiness to start for San Francisco at short notice. All officers and enlisted men have been notified to hold themselves in readiness, and the equipment is being rapidly got into shape at the armory.

SAN DIEGO, May 9.—Friends of Don M. Stewart, lieutenant commanding the third division of naval militia, fear that he has got himself into trouble by leaving the state in command of the guards of the British steamship Maori King. He asked for leave of absence, but it is understood that was not granted. Now the division is ordered under arms and he is not here to command it. A number of the men of the division were placed on guard duty as guards over the riotous Russian and Chinese steamer passengers.

## LINEMEN WILL DEFER SYMPATHETIC STRIKE

### Urged by Labor Council Not to Walk Out at the Present Time

The linemen in the employ of the Pacific telephone company voted last evening to defer action on the question of a sympathetic strike until next Sunday. The linemen had expressed their desire to strike in sympathy with the telephone girls, but representatives of the labor council urged the men to postpone such action in the belief that the strike of the operators could be won without such extreme measures at this time. Although the linemen did not wish to strike, they nevertheless, showed their sympathy with the operators by voting to set aside the sum of \$1,000 to aid the cause of the girls. A collection made during the meeting netted \$150 more for the cause. The efforts made by the conciliation committee yesterday to bring the telephone girls and the company together were not successful. The girls are striking primarily for the recognition of the United Railroads of San Francisco as the telephone company refuses to grant.

At a meeting of the executive committee of the telephone company yesterday the following resolution was adopted: Resolved, that this company declines to recognize or in any manner deal with the union formed among the telephone operators formerly in its employ, and the officials of this company are hereby instructed to advise accordingly, and the president is hereby authorized to address the following communication to the union:

"Your letter to me of the 6th inst. was considered by the board of directors of this company at a meeting held today. It was unanimously decided not to have any dealings with the telephone union, and your desire to have the company must therefore decline to meet any committee representing that union. We will be glad to listen to and consider any complaint made by its employees. At the same meeting it was decided to advise the operators who have left our employ that the fact that they have seen fit to join in a strike will not be used against them in case they desire to again seek employment with us. We will give any operators employment as quickly as vacancies occur."

"The telephone strike situation showed little change today," said G. P. Robinson, general superintendent of the Pacific telephone and telegraph company, last night. "The girls are more people at work than on any day since the walkout, and the situation was satisfactory. Six girls who had been among the strikers went to work on the boards." The girls claimed that the gains, if any, were on their side during the day. They now have available a fund of \$1,500. Money has been sent to them by various unions and by sympathizing individuals. At a meeting yesterday morning the girls decided not to draw on the fund at the present time. They stated that they were in a position to hold out for three or four months if necessary.

Secretary McCabe of the labor council, in discussing the strike, said: "In the end Mr. Scott will have to recognize the operators' union, just as he has recognized the unions of his other employees. Nestor, manager of the branch telephone office at West Mission and Hermann streets, was tried before Police Judge Weller yesterday on a charge of battery preferred against him by Miss May Parker, one of the striking telephone girls, who was picked up in front of the branch office Wednesday morning. Miss Parker testified that she was standing on the sidewalk when two telephone girls were brought to the office in an automobile. She approached the girls in an effort to dissuade them from going to work during the continuance of the strike, when Nestor struck her on the chest and called her a vile name. Her testimony was corroborated by Miss Madge O'Callaghan and Miss May Roberts.

Nestor denied that he had struck Miss Parker. He said that he merely placed his hands on her to prevent her from interfering with the new girls. The judge reserved his decision till May 11.

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## Committee of Conciliation Is Making Good Progress

### Believes It Can Succeed in Adjusting Laundry and Iron Strikes

As the result of a series of conferences held yesterday by members of the conciliation committee with the warring factions in the various local industrial controversies, it is believed that a solution is near in the case of the laundry workers and the iron workers. The conciliation committee has found a middle ground upon which it believes these strikes can be speedily settled. The subcommittees reported yesterday to the central conciliation committee at a meeting held at the Labor temple. After the meeting the following resolution was given out:

"Resolved, that it is the sense of this joint conciliatory committee that the reports received from the various subcommittees indicate that material progress has been made in specific instances; that of the disputes now pending at the present time are thought to be possible of an early solution; that of the other two reports made by the various subcommittees, while not indicating material progress, are not yet thought to be impossible of solution."

No announcement was made as to the proposed terms of settlement in the laundry workers' and the iron workers' strikes, it being the desire of the committee to make no definite announcement until positive results should be achieved.

The committee had hoped during the day that the telephone strike would be settled, but at the last moment its hopes were dashed by a statement from the company that it would under no circumstances recognize the union, and an announcement from the operators that their fight primarily was for recognition of the union. The committee offered several suggestions in the nature of a compromise to the United Railroads and the carmen, but both sides held firm to their original positions.

The conciliation committee is composed of representatives of local labor organizations and civic bodies as follows: The suggestion was made by President Benjamin Ide Wheeler of the University of California that the conciliation committee organize itself into a civic federation and affiliate with the national civic federation. Dr. Wheeler also suggested that a permanent arbitration committee be formed from the federation to seek to adjust such industrial controversies as may arise in the future.

The conciliation committee will meet again today after its subcommittees have made another effort to bring all the warring factions together.

Among those at yesterday's meeting were: Bishop Nichols, Fisher Crowley, A. W. Scott Jr., G. A. Tracy, Isidor Jacobs, Andrew Gallagher, Michael Casey, William McCabe, Wil-

## Calhoun Prepares to Call on State for Aid

### Police Protection Wholly Inadequate, Says the President

Continued from Page 1, Column 1

Calhoun might have resorted at once to the federal army if the means of doing this were more simple. If the mails had been carried by the cars this would have given the ground for a direct call to the federal authorities for military protection. But since the fire the mail sacks have been carried on the streets only at rare intervals, and the contract between the government and the United Railroads had virtually expired. Consequently no federal question is involved, and the only way of summoning federal aid would be through the process of federal injunction or federal receivership.

Thornwell Mullally, assistant to President Calhoun, made the statement yesterday that by Monday the company would have men enough to operate all the cars, and it has been announced that the fight to operate the system will be a fight to the finish.

The new steamship President will leave Broadway wharf, San Francisco, for Seattle direct, Tuesday, May 14th, at 11 a. m. Tickets offices, 3 Market st. and Broadway wharf. Freight office, Broadway wharf.

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