University of Minnesota
Law Library

Prendergast Case (1894)

Michael Hannon (2010)

The year of 1894 was a very busy one for Clarence Darrow. It also marked a fundamental transformation in Darrow's legal career. Prior to 1894, he had been following a more traditional legal career. He worked in a general practice in Ohio before moving to Chicago. In Chicago he worked as a special assessment attorney and then as assistant corporation counsel for the City of Chicago. Following that, he worked as corporate counsel for the Chicago and Northwestern Railroad. But in 1894 Darrow became involved in two important legal battles that would help change the course of his career and his life. He would try to save the life of a mentally unstable assassin who murdered the beloved mayor of Chicago. This case would fuel Darrow's lifelong horror of the death penalty. Later in the same year he helped defend Eugene Debs in the aftermath of the Pullman strike, one of the most important labor battles in the history of the United States.

The World's Fair

Chicago in 1893 was enjoying one of its greatest achievements as it was hosting the World's Fair for the first time. The Fair was called the World's Columbian Exposition to celebrate the 400th anniversary of Christopher Columbus's arrival in the New World. This was a huge responsibility for Chicago because the more established Eastern cities like New York normally hosted these events and many believed Chicago was not up to the task. This was Chicago's opportunity to move out from the shadow of New York and establish itself as one of the most important and dynamic cities in the country. Chicago had beaten New York City, Washington, D.C. and St. Louis, Missouri for the honor of hosting the World's Fair that year.

One of the most spectacular attractions at the fair was the world's first Ferris Wheel. George W. G. Ferris built it for the fair to prove that America could top the Eiffel Tower. Previously Alexandre-Gustave Eiffel had offered to build Chicago a tower larger than the one he had built in Paris, but the fair planning committee insisted the work be from "American genius." The giant wheel had 36 cars that could hold 60 passengers each for a total of 2,160 passengers at a time and was as high as a 26-story building.

During planning, the architects decided to paint all the buildings on the fairgrounds white. The paint was applied with compressed-air guns, the first time such a device was used for a major painting project. The white paint along with extensive use of street lights that lit up the area at night gave Chicago the title of the White City.

Although dedicated in October of 1892, the fair actually opened on May 1, 1893 and continued until October 30, 1893. There had been a great deal of doubt as to whether Chicago could complete the buildings, prepare the grounds and plan and execute in time to open the fair and keep it going for its intended duration. Despite many setbacks the fair was considered an overwhelming success. But just two days before the closing ceremony of Chicago's greatest accomplishment, tragedy struck in the form of a shocking murder. The crime shocked and saddened not just the city but the entire country. Chicago had been gearing up for a grand finale to close their fair. But instead of a celebratory closing ceremony, Chicago would hold a public memorial service.

Mayor Carter H. Harrison

In 1893, the mayor of Chicago was Carter Henry Harrison, Sr. Mayor Harrison was immensely popular in Chicago. He was the most successful politician in the history of Chicago up to that time, having served as mayor for five terms (1879, 1881, 1883, 1885, 1893). Born in Kentucky on February 15, 1825 he moved to Chicago in 1855 in part because he hated slavery. In 1893 he was 62 years old and besides being mayor he was also a successful businessman who had achieved the milestone of being a millionaire. Among his business adventures, he owned *The Chicago Times*. This was an especially exciting time for Mayor Harrison. Besides the upcoming closing ceremony for the World's Fair, he was also looking forward to getting married to his 25-year-old fiancée Miss Annie Howard of New Orleans, who reportedly was worth three million dollars. They were to be married on November 16, 1893. This was to be Carter Harrison's third marriage. His first wife died in 1876 and his second wife died in 1887.

Patrick Eugene Prendergast

Patrick E. Prendergast was born in Ireland on April 18, 1868. There appears to have been some severe mental problems in the family, with his grandfather reportedly having died insane and his mother suffering from "attacks of hysterics." Prendergast's father died of consumption, a disease that is now referred to as tuberculosis.

When Prendergast was four years old he suffered a severe head injury in a fall that knocked him unconscious for a long period of time; he suffered from vomiting for four weeks afterwards. He displayed mental and emotional problems as a child and was described as being peculiar, solitary, irritable, and excitable. He had a poor memory which contributed to his poor performance in school. Suffering from some form of paranoia that made him believe he was being persecuted, he left home at age 16 and by 18 he displayed grandiose ideas of his capabilities.

Prendergast eventually became a newspaper distributor in Chicago. It apparently was a job he was not satisfied with and he had dreams, or more likely delusions, that a much greater job awaited him. Politically active, Prendergast lobbied for improvements in Chicago's railroad grade crossings because he was concerned about the danger to the public. In 1893, he supported Carter Harrison's re-election campaign. This effort resulted

in the delusion that, if Harrison won the election, Prendergast would receive an appointment as Corporation Counsel for the City of Chicago.

Henry George

Prendergast had another preoccupation. He was an ardent supporter of Henry George's single tax policy. Henry George was an American political economist who rose to fame through his very influential single tax policy, also known as the land value tax. George recommended that a single tax be levied on unimproved land value. This would be the value of the land in its natural state without any manmade improvements such as buildings. George believed this would prevent wealthy individuals from buying up large tracts of property at the expense of the rest of the people. In 1879 he wrote his most popular book *Progress and Poverty* which was so influential it started a political movement in the United States built around his work. George later almost won election as mayor of New York City. The single tax policy was not an entirely new concept as George borrowed from the works of David Ricardo, James Mill, and John Stuart Mill. George was enormously popular in Britain. Some modern economists still discuss George's economic philosophy and none other than Milton Friedman, one of the most influential economists of the late twentieth century, saw some merit in George's single tax policy.

Clarence Darrow Influenced by Henry George

Interestingly, another strong supporter of Henry George's single tax policy was a young Chicago lawyer named Clarence Darrow. While he was still living and working in Ashtabula, Ohio Darrow came to be influenced by George and John Peter Altgeld indirectly through books they had written. Darrow recalled in his autobiography:

> Strange as it may seem, a banker in Ashtabula, Amos Hubbard, was the first man to give me some insight into radical political doctrines. He, like many others in that period, had been greatly influenced by Henry George's "Progress and Poverty." On his advice I read the book and felt that I had found a new political gospel that bade fair to bring about the social equality and opportunity that has always been the dream of the idealist. While Mr. Hubbard gave me a first insight into advanced political economy, Judge Richards, a police judge in Ashtabula, gave me my first sane idea of crime and criminals. He gave me a little book, "Our Penal Code and Its Victims," by Judge John P. Altgeld, of Chicago, which was a revelation to me. This book and the author came to have a marked influence upon me and my future.[1]

The full title of Altgeld's book, which was first published in 1884, is actually *Our Penal Machinery and Its Victims*. Altgeld was an Illinois judge until 1893 when he was elected Governor of Illinois. Altgeld would become Darrow's mentor and one of the most influential people in his life.

[1] CLARENCE DARROW, THE STORY OF MY LIFE 41 (1932) [hereinafter STORY OF MY LIFE].

Darrow became a vocal supporter of Henry George and his single tax policy and with many others Darrow joined the Chicago Single Tax Club. In his autobiography Darrow recounted a speaking presentation he was to give at a "Free Trade Convention" in Chicago. Darrow was supposed to speak after Henry George:

> No one knew the tariff question better than Henry George. More than this, he was a strong idealist, and had the audience in his grasp from the first moment to the last. Every one but me was carried away with his able address. I was disappointed. I was sorry that it was so good. I twitched nervously in my chair until he had finished and the applause began to die away. I felt that after his wonderful address I would not be able to hold the audience. I realized that the crowd had come to hear him, and that but a few among them had ever heard of me.

After George spoke many in the audience got up to leave and Darrow urgently told the chairman: "'For goodness sake get busy before every one leaves the house!'" Darrow caught the audience's attention and later recalled, "They seemed willing to give me a chance." Darrow apparently spoke very well and even Henry George congratulated him. Although he did not know it at the time, this speech would open up an opportunity for Darrow. The newly-elected mayor of Chicago, DeWitt C. Cregier, had been in the audience that night and he later offered Darrow the position of Special Assessment Attorney for Chicago based largely on Darrow's speech. This opened up many opportunities for Darrow.

The Assassination of Mayor Carter H. Harrison

On Saturday, October 28, 1893, Mayor Harrison had given a speech in the morning and spent the day at the World's Fair looking at the exhibits and talking with citizens. He returned to his home, a large mansion at 231 Ashland Boulevard, at about 5:00 p.m. At about 6:00 p.m. he ate dinner with his son William and his youngest daughter Sophie. Their dinner and discussion ended at about 7:45 p.m. when the Mayor dozed off and his son and daughter went to their rooms.

A short time later, Patrick Prendergast left his room at the YMCA on Kinzie Street. He had with him a .38 caliber pistol which he had purchased the day before for $4.00. At approximately 8:00 p.m. Prendergast knocked on the front door of Mayor Harrison's mansion located at 231 Ashland Boulevard. Mayor Harrison had a policy that any citizens that came by his home were to be let in. Harrison's maid answered the door. Prendergast said he was a city official and the maid allowed him to enter. Mayor Harrison left the dining room to meet his visitor and as soon as he stepped into the hall, Prendergast shot him four times. Harrison was shot in the hand, abdomen, right lower chest and below his rear right shoulder. Harrison managed to drag himself through the dining room into a pantry. He remained conscious for about 10 to 12 minutes. Several doctors arrived while he was still conscious, but they could do little for him and he died at about 8:27 p.m.

Right after the shooting, the mayor's coachman retrieved a gun and went to confront the gunman. Before fleeing, Prendergast shot at the coachman, who returned fire, but neither was hit. About a half hour after the shooting, Prendergast got off of a street car and walked into the Desplaines Police Station. He went up to the desk sergeant and confessed to shooting the mayor of Chicago.

News quickly spread throughout Chicago and the rest of the country. Even before the mayor had been declared dead, a crowd began to form outside his mansion. Crowds of people would remain outside the Harrison home over the next three days.

Chicago now had to prepare for a funeral. Among the pall bearers were Richard Oglesby, the former Republican governor who had commuted the death sentences of several of the Haymarket defendants, and Lyman Trumbull, who Clarence Darrow would work with in defending Eugene Debs after the Pullman strike.

Other Assassinations

The assassination of Mayor Harrison was not viewed by many people as just an isolated tragedy caused by one mentally disturbed individual. For many citizens it was seen as the latest in a frightening trend of crimes perpetrated against public officials. President Garfield was assassinated in 1881 by Charles Guiteau, who was also a disgruntled office seeker. That same year, Tsar Alexander II of Russia was murdered.

The assassination of President Garfield was especially traumatic for many in Chicago and the rest of the country. Soon after the mayor's death, Harrison's assassination was commonly compared to the 1881 assassination of Garfield. Many viewed Harrison's murder as the most sensational news event since Garfield was shot and killed. Since both men were murdered by disgruntled office seekers, there were calls to reform civil service.

Prendergast's Motives

When Prendergast turned himself in to the surprised policemen at the station he immediately offered a motive for his crime. He identified himself and said he worked on Carter Harrison's campaign, and said Harrison had promised to make him corporation counsel for the City of Chicago. Prendergast claimed he killed Harrison because the mayor failed to fulfill this promise. He also said that Carter broke his promise about track elevation. Prendergast had become fixated on the issue of elevating the tracks for safety reasons.

Later when he was interrogated by the police, Prendergast said Harrison had not actually promised the corporation counsel position but that Prendergast was the only person who could get the tracks elevated. It was soon revealed that a few days before the murder, Prendergast had mailed a postcard to Adolph Kraus, whom Harrison had appointed to the position Prendergast coveted. The postcard said, "I want your job as corporation counsel. If you know what is good for yourself, resign. Prendergast." But the postcard was dismissed as the work of a crank and not investigated.

The newspapers had reported:

> Prendergast had visited Kraus in his City Hall office, warning him to resign then and there or face the consequences. Kraus only escaped violence when he tricked Prendergast into believing he was about to vacate the office for him. Kraus lost his intruder in the crowded lobby of City Hall. That evening, when Prendergast visited the mayor, Harrison wasn't as lucky.[2]

Prendergast had absolutely no education or training to be corporation counsel, so this claim was one of the main reasons that the newspaper's coverage soon portrayed him as mentally imbalanced.

According to one source, "Chief Brennan of the Chicago Police Department, who spoke with the suspect within 20 minutes of his arrest, announced to the press, 'He is crazy. As crazy as a bed bug.'"[3] Another police official claimed that Prendergast "'seemed out of his right senses.'" And Assistant Chief of Police Kipley publicly announced that "'Prendergast had talked and acted like a crazy man.'"

Coroner's Inquest and Grand Jury

In sharp contrast to sensational murder cases today, in 1893 the justice system moved very rapidly. Just one day after Mayor Harrison was assassinated, the coroner's inquest was held. Eerily, this was held at the mayor's own house. Adding to the peculiar situation, Prendergast himself was taken to the house where he waited under guard in the same hallway where he assassinated Mayor Harrison. The coroner's jury voted to remand the case to a grand jury. On November 2, just a few days after the crime, a grand jury voted to indict Prendergast for first degree murder and later the same day he was taken before Judge Oliver Horton for arraignment. Judge Horton scheduled the murder trial to begin on November 6. The trial judge was to be Edward F. Dunne, who would later become the mayor of Chicago and later still the governor of Illinois. In 1903, Judge Dunne would also preside over Clarence Darrow's second marriage.

Public Perception of Prendergast Changes

Initially Prendergast was viewed by the public as a mentally disturbed, defective individual who was more to be pitied than hated. But as more became known about him, the public started to see him as a disgruntled egoist who used a gun to get revenge; although mentally defective to some extent he was not the raging insane lunatic he first appeared to be. This did not bode well for Prendergast in his upcoming trial. By the time of the trial, public opinion of Prendergast had changed. The public came to hate him more than pity him.

---

[2] Edward M. Burke, *Lunatics and Anarchists: Political Homicide in Chicago*, 92 J. CRIM. L. & CRIMINOLOGY 791, 794 (2002).
[3] *Id.* at 793.

Trial

Because of several delays, the position of trial judge rotated to Judge Theodore Brentano and the trial began on December 6, 1893. The prosecution was led by Alfred S. Trude, who was born in Devonshire, England in 1846 but whose parents emigrated to the United States shortly after he was born. Trude was assisted by James Todd and Jacob Kern.

The defense consisted of two attorneys appointed by the court, R.A. Wade and Robert Essex. They were joined by two attorneys, John Heron and John P. McGooty, who were hired by Prendergast's brother.

Jury selection was difficult for the defense. Most prospective jurors admitted to thinking that Prendergast was guilty and sane based on the heavy newspaper coverage of the case. The defense wanted to eliminate jurors that held those beliefs; they also wanted to eliminate jurors if they thought the murder of Mayor Harrison was a worse crime than the murder of an ordinary citizen. The prosecution focused on eliminating those who were strongly against the death penalty or were too open to an insanity plea. During jury selection, Prendergast began to act up by objecting to any reference to his being insane. Newspapers claimed he was faking it, similar to the way the newspapers and consequently the public viewed Charles Guiteau, the assassin of President Garfield.

After jury selection, the actual trial began on December 13. Todd opened for the state, telling the jury that the assassination was akin to the murders of Lincoln and Garfield. He also emphasized that it happened just before Chicago's World Fair was to close. The state then introduced witnesses to establish that Prendergast was the murderer. The real issue would be whether Prendergast was insane.

Defendant's Mother Testifies

The defense did not waste time trying to deny that Prendergast committed the crime. Their primary focus was on convincing the jury that he was insane. Their most important witness was Prendergast's mother. She told of his childhood and claimed that his personality changed after his father died. She described his growing preoccupation with the economic theories of Henry George and with religious issues. On cross-examination, Trude got her to admit that soon after the murder, she initially said her son was sane and that she had never told anyone previously that she thought he was insane. She stated that she did not notice any symptoms of insanity and that no one ever mentioned to her that they found "'any of his actions queer with the single exception of the great interest he has lately taken in the single tax theory of Henry George.'"[4]

The defense introduced other witnesses who testified to Prendergast's mental problems. The defense wanted Henry George to appear as a witness. According to a news report:

[4] Richard Allen Morton, *A Victorian Tragedy: The Strange Deaths of Mayor Carter H. Harrison and Patrick Eugene Prendergast*, 96 J. ILL. ST. HIST. SOC'Y 6, 14 (2003) [hereinafter *Victorian Tragedy*].

> Henry George has been subpoenaed by the defense and will probably testify on Monday. The attorneys for the defense have been in correspondence with Mr. George and he will tell of letters that he has received from the prisoner and of an interview that he had with him while in the city last Summer.[5]

But a few days later, Mr. Wade announced that he had no witnesses to put on the stand and that Henry George had evaded service.[6]

Sane versus Insane

The prosecution engaged six doctors to evaluate Prendergast's sanity. But only one of the six was willing to go on the stand and testify that Prendergast was sane. The prosecution then ignored the other five and did not call them to testify. But the defense subpoenaed four of these doctors originally hired by the prosecution; three testified that Prendergast was insane and not responsible for his actions. The judge did not allow the defense to tell the jury that these doctors had originally been called by the prosecution.

Trude did not take kindly to the doctors he had employed later helping the defense. He exclaimed in court:

> The State has been tricked . . . and some of the doctors who will take the stand for the defense are the very doctors who were called together by the State along with others, to formulate a line of prosecution. Some of these men attended the conferences, gave their opinions to the representatives of the State, learned the policy of the prosecution, and now they are to take the stand for the other side armed with every particle of data that the prosecution has gathered. You can say for me that certain organizations have raised money for the defense of the murder of Carter Harrison, and I would not hesitate to say that money has been freely used by the defense in securing expert testimony.[7]

Dr. Archibald Church was questioned in court and explained:

> I was employed by State's Attorney Kern to make an examination of Prendergast, and to report to him as to his mental condition, and whether he was mentally responsible for the crime. Since that time I have been subpoenaed for the defense. Of course, I had to obey the law and come. I have told what I think of the man, and that I consider him crazy.[8]

Interestingly this was the same Dr. Archibald Church who in 1924 would testify for the prosecution during the notorious Leopold and Loeb case. Dr. Church would conclude that

---

[5] *To Testify for Harrison's Murderer; Henry George Will Be Called by the Defense This Week*, N.Y. TIMES, Dec. 17, 1893, at 8.
[6] *The Prendergast Murder Trial: Physicians for the Defense Testified that the Prisoner Is Insane*, N.Y. TIMES, Dec. 19, 1893, at 5.
[7] *Id.*
[8] *Id.*

Leopold and Loeb were sane and were not suffering from mental disabilities and thus they were legally responsible for murdering 14-year-old Bobby Franks. Clarence Darrow would commend Dr. Church during the Prendergast hearing. Thirty years later he would sharply criticize Dr. Church during the Leopold and Loeb hearing.

The defense was allowed to introduce some rambling letters Prendergast wrote both before and after the murder. Prior to the crime, Prendergast had sent letters to various people. They included several letters to United States Senator Dubois of Idaho, in which Prendergast expressed a dislike for President Cleveland and great interest in the silver versus gold monetary system. Dr. Church testified that the letters showed that Prendergast was insane. But Trude had examined the letters and discovered that they had first been written in pencil - Prendergast had then traced over the pencil in ink. Trude cross-examined Dr. Church about this and Church admitted that this was not a manifestation of insanity but instead showed deliberation and forethought.

Prosecution Relies on Lay Witnesses to Show Prendergast Sane

The prosecution relied on lay people to try and show that Prendergast was sane. The prosecution called about 30 non-medical witnesses, many of whom were casual acquaintances, to describe their interactions with Prendergast in order to show he was not insane. One of these was the judge who had presided over Prendergast's first arraignment and who only saw the defendant for about 10 minutes. The prosecution also called the corporation counsel for Chicago who testified to meeting Prendergast when he came demanding he should have that position.

Finally, the prosecution got a medical doctor who was not an alienist to testify on cross-examination that Prendergast's exhibition of fear while in jail during the Mayor's funeral was a sign of sanity. The prosecution made this exhibition of fear one of its strongest arguments to show that Prendergast was sane.

Verdict

When both sides had concluded on December 29, 1893, Judge Brentano charged the jury. The jury left to begin deliberations at about 1:20 p.m. Within an hour they had returned with a verdict. They found Prendergast guilty and decided he should be executed for the crime. The defense immediately moved for a new trial based on errors. R.A. Wade sharply denounced the verdict:

> Judge Brentano attempted to give as fair a trial as any one could have done. With the jury it was different. They were all sycophants. The verdict makes a farce of our jury system and is as unjust as can be. The evidence showed the boy to be insane beyond a doubt, and you may mark my word that the strain imposed upon his mind will make him a raving maniac before a supersedeas could reach the Supreme Court. Prendergast's actions in court may have hurt his case with the jury, but all reasonable men knew he was crazy. It was another question of the rich against the poor. The Harrison family paid the bills of the prosecution. . . . I

> would not have cared so much had the sentence been imprisonment. Two years would have found the boy in some insane asylum. Yes, Sir, the verdict is an outrage and will not stand.[9]

Clarence Darrow Gets Involved

It is not clear exactly when Clarence Darrow became involved in the Prendergast case. According to a *New York Times* article Darrow tried to help Prendergast as early as February, 1894. The article reports that on February 20:

> Attorney Darrow, junior counsel for the defense, this morning continued argument on the motion for a new trial for Patrick Eugene Prendergast, the assassin of Mayor Harrison. His peroration was an eloquent and brilliant plea to the court to be merciful to a demented prisoner, although that prisoner had gained the hatred of a great city by his crime.[10]

Judge Brentano took time to review the defense's motion, but on February 24, 1894 he denied the motion and sentenced Prendergast to be executed by hanging on March 23, 1894.

Prendergast Saved Night Before Execution

As March 23 approached, there was no reason to doubt that Prendergast would be executed. But on March 22, just the day before his scheduled execution, Prendergast's brother filed a motion on the condemned man's behalf asking the execution to be stayed because Prendergast had become insane since the verdict.

Illinois Law

The defense had used an Illinois statute which required a sanity hearing if it appeared that the condemned had become insane after the verdict but before the sentence was carried out. Specifically, they used Chapter 38, Sec. 285 of the Illinois Criminal Code which provided:

> [I]f, after judgment and before execution of the sentence, such person become lunatic or insane, then in case the punishment be capital, the execution thereof shall be stayed until the recovery of said person from the insanity or lunacy. In all of these cases it shall be the duty of the court to impanel a jury to try the question whether the accused be, at the time of impaneling, insane or lunatic.[11]

---

[9] *To Save Prendergast's Neck; His Counsel Indignant Over the Verdict of the Jury*, N.Y. TIMES, Dec. 30, 1893, at 12..
[10] *A Tablet for "Congress Hall"; Baltimore's Historic Building to be Appropriately Marked*, N.Y. TIMES, Feb. 21, 1894, at 1.
[11] Chapter 38, 285, § 13.

Judge Chetlain found that good cause had been shown for prolonging the time set for the execution. Chicago was shocked and many were outraged when Judge Chetlain granted a stay of execution and ordered a hearing pursuant to the statute. It did not help that the stay of execution was done at 11:30 p.m. the night before it was to be carried out.

The judge ordered a hearing to be held as required by the statute to determine if Prendergast had become insane since the verdict. One source states that it was Clarence Darrow who was behind the last minute reprieve for Prendergast. According to this source, it is not clear exactly when Darrow got involved, but "R.A. Wade and John Heron had signed the petition for a retrial, one of the supporting affidavits (that of one of the defector's[sic], Dr. Daniel R. Brower, describing the prosecution's unwillingness to accept his diagnosis of Prendergast's mental state) was written on stationary of the firm of Collins, Goodrich, Darrow & Vincent."[12] The firm had its office in the famous Rookery building in Chicago.

Brand Whitlock

Clarence Darrow first met Brand Whitlock when they had both gone to see Lieutenant-Governor of Illinois Joe Gill to ask him to spare Prendergast's life. According to Whitlock, Governor Altgeld was out of state, leaving Gill in charge. Through this chance encounter, Whitlock and Darrow became friends and exchanged letters. Whitlock was a lawyer, politician, municipal reformer, diplomat, writer and newspaper reporter. He moved to Toledo, Ohio in 1897. Between 1905 and 1911 he was elected mayor of Toledo four times as an Independent. In 1913, Whitlock was appointed Minister to Belgium by President Wilson. Whitlock's efforts to help Belgium during World War I would earn him legendary status in that country.

The *New York Times* reported that Darrow had gone to Springfield, Illinois to see Gill and petition for clemency on March 22. The newspaper reported that after Gill had heard the arguments, he declared that a jury had found Prendergast sane and said, "'I feel that he has had a fair trial, and I cannot and will not interfere.'"[13]

Insanity Trial

After many delays, the sanity trial began on June 20, 1894. The court records title the action as "Insane Proceedings." Although the defense objected, the prosecution was led by A.S. Trude. Darrow would be joined by Stephen S. Gregory and James S. Harlan for the defense. Gregory, known as "S.S." Gregory, was a very prominent attorney and at one time the president of the American Bar Association. Darrow would soon work with Gregory during the defense of Eugene Debs and other defendants following the Pullman strike. James S. Harlan (1861 - 1927) was a lawyer and son of United States Supreme Court Justice John Marshall Harlan.

---

[12] *Victorian Tragedy*, *supra* note 4, at 25.

[13] *A Respite for Prendergast; The Assassin of Mayor Harrison Will Not Hang To-day*, N.Y. TIMES, Mar. 23, 1894, at 1.

In an opening statement for the defense, Gregory told the jury that they would present expert testimony from professionals who would clearly show that Prendergast was insane. Trude, for the prosecution, warned the jury to be "on their guard against attaching too much importance to expert testimony in an insane case . . . it was not so good as the testimony of plain, honest, unprofessional people."[14]

Another Assassination

Another assassination occurred while Prendergast's sanity hearing was underway. Marie Francois Sadi Carnot, the president of France, was murdered by a political rival on June 25, 1894. Sadi Carnot, as he was commonly known, was born in 1837. He was a French statesman and the fourth president of the Third French Republic. He served as the President of France from 1887 until his assassination in 1894. Coming just five days after Prendergast's sanity hearing began, some believed that Carnot's assassination would affect the jury that would decide Prendergast's fate. The *Daily Herald* of Brownsville, Texas noted that the assassination of French President Carnot "has added fresh interest to the case of Carter Harrison's murderer" because Prendergast's insanity hearing was underway and "[i]t was freely predicted in the courtroom that this later slaying would have its effect on the Prendergast jury, the members of which are not denied newspapers, and that material would be found in the person of Prendergast for an example to [a] would be assassin."[15] Two years later, in March 1886, a Dr. Richard Dewey presented a paper entitled *A Comparative Study of Caserio and Prendergast, the slayers respectively of President Carnot and Mayor Harrison, with some consideration of the proper disposal to be made of the dangerous crank.*[16]

Pleas for Mercy and Pleas for Justice

The closing arguments were held on July 2, 1894 and began at 9:00 a.m. Each side was given three and a half hours to argue to the jury. James S. Harlan opened for the defense. He would be followed by Mr. Todd and Mr. Morrison for the prosecution. Clarence Darrow would give the final argument for the defense.

Mr. Todd for the prosecution told the jury that the attorneys for the state were not there to be "a supliant for mercy, but demanding that justice shall be done." While claiming not to be playing on emotions, Todd did just that:

> We are not here for the purpose of presenting for you, the sickening spectacle of the Chief Executive of this city shot down at the very threshold of his house, with a bride to be weeping over the prostrate body. We are not here to speak of the concourse of people following with silent step the departed mayor to his grave.

[14] *Victorian Tragedy*, *supra* note 4, at 26 (citing CHICAGO TRIBUNE, June 26, 1894, at 4; CHICAGO TIMES, June 26, 1894, at 1).
[15] *Prendergast Case*, THE DAILY HERALD, June 30, 1894.
[16] 152 B. MED. AND SURGICAL J., 390 (Apr. 6, 1905).

Assistant State's Attorney Morrison warned the jury:

> Mr. Darrow will refer to the widowed mother, and the brother of this prisoner, and tug at your heart-strings, that your sympathies may be aroused and overwhelm your judgment. He will picture to you the scene of a heart-broken, widowed mother, and the discouraged brother. All of that Mr. Darrow is exceedingly able to do. In that lies their only hope in this case, that the administration of the law shall be defeated.

Morrison stressed that the state was not allowed to resort to sympathy but like Todd he did so:

> I am not permitted to picture before you the murdered Mayor, who in response to the ringing of his door-bell, upon that fatal night of the 28th of October, living in the full peace of the people, in a community where he was universally beloved and respected, goes forward to meet the stranger and meets his death. In his own home, that he loved so well, shot down like a dog by a man whom all the evidence shows, by a man whom your own judgment, as you have seen him here, knew full well the nature of the act, and had the power at that time to refrain from doing it.

Morrison was wary of Darrow and tried to warn the jury of the emotional arguments Darrow would make:

> [M]ind you, gentlemen, when I anticipate these arguments it is because nothing has been suggested in the opening argument of Mr. Harlan, but I have reason to believe that this will all be covered by Mr. Darrow when he comes to address you, and he has the closing argument in this case and I am not permitted to reply to it, and that is the reason I refer to it now.

He concluded:

> Let the people of the State of Illinois understand that the law is both strong enough and able enough, and its officers powerful enough, to see that it is enforced, and that can be done in this case, gentlemen of the jury, by saying, with reference to Patrick Prendergast, that there has been no change in his condition since the 24th day of February last. He is mentally fit and responsible, not only for his crime, but mentally fit to prepare himself for the doom which his crime so deservedly merits.

Clarence Darrow's Argument to the Jury

This was Darrow's first murder case, but he opened bluntly:

> It is not often that I take part in a criminal case. Before engaging in the present trial I had supposed there were certain tried standards which the ethics of the

> profession had enjoined upon prosecutors that should be followed by honorable men. I had never believed that the State was so interested in taking the blood of any human being that lawyers should travel beyond the truth and beyond the record and beg the jury to violate their oath for the sake of giving justice a victim, as these gentlemen put it.

Darrow displayed anger against the death penalty that would stay with him throughout his life, saying: "It seems to me that the arguments I have heard advanced to this jury as an excuse for taking a human life would not be warranted amongst savage trials . . . ."

Darrow repeatedly told the jury that they were not to rely on the verdict in the first trial. He even told the jury that the murder of Mayor Harrison was not to be considered. The only issue was whether Prendergast was now insane. Darrow used his biting sarcasm to ridicule the prosecution's arguments that non-experts could use their common sense to determine whether Prendergast was insane.

Darrow sharply criticized the prosecution for bringing up the guilty verdict. He warned the jury that it could not hide behind the previous jury's decision. The only issue was whether Prendergast became insane after he was sentenced. Nothing that happened before was material. As he would do in future death penalty cases, he placed the full responsibility on the jury:

> Gentlemen, there is no power on earth that can relieve you from the obligations of your conscience; that can satisfy you if you seek to shelter yourselves behind any excuse. Between this poor boy and the gallows stands this jury, and it must be by your consent that his life shall be taken if these gentlemen succeed in their pleading for his blood. You may give Mr. Morrison and Mr. Todd the grim satisfaction which the savage feels when he places another scalp at his belt, by hiding behind the supposed verdict of a supposed jury . . . .

Darrow denied the prosecution's arguments:

> [I]t has been said that I would work upon your sympathies; that by art and device I would seek to conjure you to go beyond your duty, to violate the law, to cheat justice of a victim, as they are pleased to call him. I shall not do it. If evidence we have presented here is not sufficient for you gentlemen, in this age and generation, to say that it would be an inhuman spectacle to lead this man to the gallows, then the responsibility is with you and not with me.

Darrow accused the state of using sympathy for the victim:

> The only issue before you, gentlemen, is the condition of this man's mind. Nothing else. And yet counsel have paraded to you the horrible details of a horrible assassination. They have pictured the blood of the victim and the sorrow of the family and the mourning of the city and the great concourse that followed the victim to his grave; and they have done this, gentlemen, that you might be

> blinded by the sight of this blood and forget the question of the mind of this unfortunate being, which alone is the issue in this case. In insincere words they have talked of the sanctity of the home, and paraded its inmates, and even the fiancee [sic] of the dead, that they might wring from you a verdict that would consign a lunatic to the gallows, that, forsooth, they might get more praise and more cash.

Darrow told the jury that he knew Mayor Harrison:

> Now, gentlemen of the jury, the assassination of Mayor Harrison has nothing to do with this case. I do not yield before these maudlin gentlemen in the respect I pay to his memory, and the respect I had for him while living, and I believe, on my conscience, that I represent that great man better in standing here and urging you to save a lunatic's life than I would if I joined with them to hunt him to his grave. I knew him. I respected and regarded him. I was one of those whom Mr. Morrison described as following him to his last resting place; and I believe that, could he speak to you today, from his great heart and his charitable mind he would ask you to save the city that he loved and the State in which he lived from the infamous disgrace of sending a lunatic to the scaffold.

Dr. Corbus, an expert for the state, had gone to the jail to see Prendergast. Darrow told the jury that Corbus "asked the jailer to introduce him as a businessman, so he could deceive Prendergast and he would not think he was a doctor. That was entirely unnecessary, for no human being would ever have supposed he was a doctor anyway, even if he had said so."

Darrow vehemently criticized the psychiatric experts for the state:

> Gentlemen, it makes my blood boil with indignation to think of the damnable course of these men who disgrace the medical profession; these men who have used a high and divine calling, that of saving of human life and the alleviation of human pain, who are called here by these attorneys, and who went into that jail, imposing upon this poor, weak mind, who got his confidence through deceit and lies, and then after that failed to ask him the very things that would manifest his state of mind. They had no right not to know his condition. . . . Ah, but gentlemen, these so-called doctors went into the prison pen of that poor boy as a ferret goes down into the hole of a rabbit, to drag forth their victim. They asked their questions as a hunter would set a snare to catch a bird and they used the power of the State and their superior intellect and learning, not to find out whether the State was about to make a sacrifice in the shape of a miserable victim, but to find excuses to salve your conscience, stultify your intellect, overcome your reason and help in the erection of a scaffold and the tying of a rope.

He said of another state expert: "Now if Dr. Bluthardt had on a white apron we would all take him for a butcher. He looks like it, he testified like it."

As he would do in all of his criminal trials, especially murder trials when the death penalty was a possibility, Darrow tried to impress upon the jury that the full responsibility for the defendant's fate fell on them:

> Gentlemen, wherever the English language is spoken, wherever the spirit of liberty has prevailed, wherever we have the resemblance of liberty and of freedom, it requires the judgment and conscience and decision of twelve jurors before any human being can suffer death. Before this boy can be offered up as a sacrifice to the state, each one of you gentlemen must consent that in his poor, weak, deluded condition he should suffer this cruel death. Your [sic] are the ones; you cannot excuse your judgment nor your conscience by charging it to other juries or to other courts. It has been the shield of freedom and the shielf [sic] of life for centuries, this trial by jury, and that protection and that shield is as available to this poor, demented boy as to anyone of you, gentlemen of the jury, if sometime you might through some great affliction stand in his stead.

Conclusion

Darrow would often quote poetry and philosophers in his closing arguments. In addition, one of Darrow's core beliefs which he never wavered from was that human beings are driven by forces stronger than they are. He concluded his plea in this manner:

> Ages ago, at least eight centuries ago, a great poet and student of philosophy of life studied the questions of human nature as men have scarcely studied them to-day, and he arranged various human beings in the shape of vessels fresh from the potter's hands, and he made each one of these pots to plead its cause. And one poor, deformed vessel spoke up from amongst the rest and said: "You leer at my misshapen form, but did the hand of the great potter shape?" Gentlemen, here is Prendergast, the product of the infinite God, not his own making. He comes here for some inscrutable reason, the same as you and I, without his will, without his knowledge, because the infinite God of the infinite universe saw fit to make him as he willed. His fault is not the fault of Prendergast. It is the fault of the infinite power that made him the object you find today. I beseech you, gentlemen, do not visit upon this poor boy the afflictions which God almighty placed upon him for some inscrutable reason unknown to us.
>
> I have finished this case. I believe, I trust, that you gentlemen will take it feeling the same sacred duty, the same care, that I have felt. This poor, weak, misshapen vessel I place in your protection and your hands. I beg of you, gentlemen, take it gently, tenderly, carefully. Do not, I beseech you, do not break the clay, for though weak and cracked and useless it is the handiwork of the infinite God.

After Darrow concluded, the court was adjourned until the next day, July 3, 1894. When court resumed, Judge Payne read the jury their instructions, which took 20 minutes:

> In this proceeding the question simply is, does he understand and appreciate the fact that he has been tried and found guilty of murder? Does he understand the nature of this proceeding.
>
> Is he so far sane as to be capable of making preparation for death? Or, in a word, is he so far sane that it would not be contrary to humanity to execute him. This is the test and whether he be sane or insane in any other sense it does not concern us to inquire.
>
> If you believe from the evidence that the prisoner has insane delusions in respect to some subjects, yet if you are further satisfied from the evidence that none of these delusions render him unconscious of his present condition or unfit him for preparation for death, then you are instructed that such delusions do not constitute such insanity or lunacy as to afford a reason for staying the execution of the sentence of the court.

The court transcript ends with a reference to the defendant after the court adjourned: "[P]rendergast, sat sullenly in his chair for five minutes, and then asked the bailiff to take him back to his cell." The jury retired to begin deliberations at about 10:20 a.m. They notified the court at 12:55 p.m. that they had reached a verdict. The jury found Prendergast was not insane. Prendergast was scheduled to die in 10 days on July 13, 1894.

Last Ditch Efforts

Darrow and the defense did not give up. They immediately made a motion for a new trial, but this was denied. On July 11, Darrow and James B. Harlan traveled to Springfield, the capital of Illinois, to plead with Governor Altgeld to spare Prendergast's life. But Governor Altgeld, who had suffered politically for pardoning the Haymarket defendants on June 26, 1893, refused to save Prendergast. Altgeld's political career would never recover from the pardon of the Haymarket defendants.

The defense also petitioned Judge Peter S. Grosscup of the United States Circuit Court for a writ of habeas corpus. Arguments were made to the court by the defense, but Judge Grosscup denied the petition. Judge Grosscup would later play a key role during and after the Pullman strike. Darrow would appear before this same judge when he helped defend Eugene Debs in the aftermath of the Pullman strike.

Prendergast Executed

Prendergast was hanged on Friday, July 13, 1894. The execution took place at 11:48 a.m. and Prendergast was pronounced dead at 12:08 p.m. He was later buried in Calvary Cemetery.

Darrow wrote of the Prendergast case in his 1932 autobiography:

Various newspapers and magazines have stated how many murder cases I have tried, and that I never had a client executed. These stories have been exaggerated as to the number, which I do not know myself. Most of these trials have been long drawn out. Twice, at least, I have spent two years in a single case. I have been much in court for nearly half a century, and have tried many cases in many different States. It is true that I have never had a client executed in any case where I was employed and participated in the trial. I did undertake to save the life of a poor demented imbecile who killed the first Carter Harrison while he was mayor of Chicago, and I did not succeed; but he had been tried and sentenced and the case had been affirmed by the Supreme Court, when, with two fine lawyers, S. S. Gregory and James Harlan, I ventured to save him on an inquest of sanity, and we failed. Every one believes now, and most people believed then, that he was insane and idiotic; but he had killed a mayor, as another crazy man had killed President James A. Garfield, and was promptly hanged for the deed; but the execution of Guiteau, who was plainly insane, did not prevent another lunatic from killing President McKinley. In all these cases the people of course wanted the killer put to death, and the voice of the people is the voice of their God.

Prendergast, the slayer of Carter Harrison, was not the only one put to death when I had sought to help after there had been a trial and a conviction. For many years I tried to prevent all hangings in the State, and occasionally would snatch a brand from the burning. But I never had a client hanged when I undertook the trial of his case, and I never shall, for I would not dare to take another chance. Through it all, I have never picked my cases, but have taken what came along, so far as I could. I know that I have been unusually successful in winning them; whether I am an able lawyer or not I do not know or care; to be simply an able lawyer means no more than it would to be able to lift the strongest weight--like Sandow.[17]

[17] STORY OF MY LIFE, *supra* note 1, at 425-26.