

The Chicago Daily

VOLUME LIII.—NO. 194.

FRIDAY, JULY 13, 1894—TWELVE P

WILL HANG TODAY.

Prendergast at Last at the End of His Rope.

LEGAL WAR TO THE END.

Every Pretext for Escape or Delay Finally Exhausted.

ALTGELD THE LAST HOPE.

Governor Refuses to Interfere and the Assassin Must Die.

PREPARING FOR THE EXECUTION.

At 2 a. m. Prendergast was asleep. He wakened once or twice during the night, said nothing, and almost immediately fell asleep again.

Prendergast will be hanged today between the hours of 10 and 2 o'clock. The apparently interminable dilatory proceedings in his behalf came to an end yesterday afternoon. All the motions of the assassin's counsel before Judge Grosscup, for a writ of habeas corpus, for a stay of proceedings, and even for an appeal were overruled, and this decision was immediately followed by the action of Gov. Altgeld refusing a reprieve. His counsel then admitted there was no further hope and immediately the Sheriff and the condemned man alike began their ghastly preparations for the closing scene in the tragedy of the assassination of Mayor Harrison.

At the morning session of the United States Circuit Court Attorney Gregory argued for a writ of habeas corpus on the grounds alleged in the petition filed the day before. At the conclusion of the argument the court had not been convinced that a writ of habeas corpus should issue and refused to grant the petition. Judge Grosscup was in doubt, however, whether the prisoner was entitled to an appeal to the Supreme Court at Washington from his decision refusing the writ. This question he took under advisement and telegraphed to Indianapolis for Judge Woods of the United States Circuit Court of Appeals, asking him to come to Chicago and confer with him this morning. The court then adjourned.

In the afternoon A. S. Trude and Assistant State's Attorney Morrison called on Judge Grosscup in his chambers and asked to be allowed to file an answer to the petition of Prendergast and to the argument of Mr. Gregory for an appeal to the Supreme Court. The attorneys for the State presented to the Judge some authorities bearing on the case, one the decision in Woods against the United States, in which it was held that the Circuit Court of the United States has the discretion to grant an appeal, but the Federal statutes do not give it to the prisoner as a matter of right. Judge Grosscup agreed to hear an argument at 4:30 o'clock in the afternoon from the attorneys for the State. At the hour named Mr. Trude and Assistant State's Attorneys Morrison and Todd were in court, with Attorneys Gregory and Darrow, representing the prisoner. John Prendergast, the brother of the condemned man, was also present.

Arrives at a Decision.

As soon as the court was called to order Judge Grosscup announced that he had considered the case since the morning and had come to a conclusion. He had telegraphed, he said, to Judge Woods that he need not come. "The petition for a writ of habeas corpus," said the court, "sets up the fact that this prisoner was not asked if he had anything to say why sentence of death should not be pro-

questing him to be in the city last night or this morning and counsel with him concerning the application for a stay. The telegram was sent and then Mr. Gregory proceeded with his argument.

The Judge soon afterward also directed the Clerk of the court to write a letter to Sheriff Gilbert asking him to delay the execution tomorrow as long as he could, or until the last moment before the expiration of the time in which the sentence was to be carried out. To this letter, which, however, proved to be useless, Sheriff Gilbert replied as follows:

Your letter in regard to Prendergast's application for a writ of habeas corpus and its possible legal complications duly received. I have referred the matter to my attorney, who has not yet given me advice. I shall of course act with all due regard to the prisoner's rights, but shall also act only under proper authority.

"The letter explains my position at this time, I can say nothing more," said the Sheriff.

Mr. Gregory in the morning proceedings be-

TO PROBE THE STRIKE

CLEVELAND WILL NAME A COMMISSION TO INVESTIGATE IT.

Commissioner of Labor Wright Will Head the Body, Which Is Given Power by the O'Neill Law to Send for Persons and Papers—May Forestall Congressional Action—What Is Expected to Be Accomplished—Commerce Committee Reports Favoring a Full Inquiry.

WASHINGTON, D. C., July 12.—[Special.]—The President has decided that he will appoint an Arbitration commission, under the provisions of the O'Neill law, to investigate the strikes at Chicago. The members of the commission, it is officially announced at the Executive Mansion, will be named as soon as

of Labor printed out to the President sections 8 to 11 of the same act, and the President was forced to admit that he had not carefully examined that portion of the law nor looked into the powers granted him under it.

Commission with Power to Investigate.

Sec. 8 provides that the President may select two Commissioners, who, together with the Commissioner of Labor, shall form a temporary commission for the purpose of examining into the causes of any strike controversies, the conditions accompanying it, and the possibilities of securing an amicable adjustment.

The law provides that the services of such a commission may be tendered by the President for the purpose of settling such a controversy, either upon his own motion or upon the application of one of the parties to the controversy, or on the request of the Governor of the State where the trouble arises.

Sec. 8 of the law gives the commission power to visit the disturbed locality, make a careful inquiry into the causes of the trouble, advise the respective parties what they should do to adjust the matter, and finally to make a written decision of their own findings, which is to be filed not only with the Commissioner of Labor, but also with the Secretary of the State in which the controversy exists. The Commissioner of Labor is made the Chairman of the committee and he is given authority to administer oaths and summon witnesses exactly as a United States Commissioner or court.

The commission as suggested by the act has no power to bind either party to the dispute, but it may perform valuable service in the way of suggesting a basis of settlement, and at least could make an official record of the testimony of witnesses sworn to tell the truth. The President appeared to be much impressed with the proposition, and it is probable that it will be considered carefully at the Cabinet meeting tomorrow. No names were suggested as members of the commission, but one, of course, will be a resident of Illinois and probably of Chicago. Carroll D. Wright, the Commissioner of Labor, would, under the law, have control of the proceedings.

Quick Action May Be Taken.

The commission as suggested by the law would not interfere with any Congressional investigation, but at the same time it might prevent action by Congress in this direction. Being a smaller body it could travel quickly and transact business without troublesome red tape. It could if appointed now get out to Chicago and be of some service before the strike ends.

So far as could be learned the President is much impressed with the possibility of securing an unbiased commission to stand between the two parties to the controversy, inasmuch as it is generally believed that the mere appearance of a commission in Chicago and its settling down to work will at least result in restoring order temporarily and thus relieving the Federal authorities from the unpleasant duty of maintaining order at the point of the bayonet.

As it appears now the President may appoint the commission on his own motion. If he should decide not to do this he would still be obliged to create the commission on the application of either the strikers or railroad managers, or Gov. Altgeld. Hence the prospects appear to be in favor of the sending of a commission to Chicago unless the Attorney-General reports adversely on the law itself.

The appointment of this committee is a virtual abandonment of the efforts previously made to secure a compulsory arbitration under the provisions of Secs. 1 to 5 of the law, which are manifestly inapplicable to the present situation, as THE TRIBUNE has shown in its editorial columns.

Hayes Tells of the Interview.

John W. Hayes, the General Secretary-Treasurer of the Knights of Labor, tonight gave out the following statement covering the committee's interview with President Cleveland:

"We had an hour's talk with President Cleveland this afternoon for the purpose of calling his attention to the arbitration act of 1888 introduced in the House of Representatives by John J. O'Neill of Missouri. The delegation consisted of John W. Hayes, General Secretary-Treasurer; Thomas B. McGuire and C. A. French of the General Executive Board."



ASSASSIN PATRICK EUGENE JOSEPH PRENDERGAST, TO BE HANGED TODAY.

for Judge Grosscup was so positive Prendergast had been refused his constitutional right to be asked if he had anything to say why sentence should not be pronounced on him that a reporter for THE TRIBUNE made an examination of the record in the case as to this point. He applied to Chief Clerk Dunne of the Criminal Court, who afforded him the desired opportunity. On page 247 of the official record of the proceedings before Judge Brentano Feb. 27, 1894, the facts are set forth in legal phraseology that the court had under consideration a motion for a new trial, which motion was overruled, and proceeds:

And now, neither the said defendant nor his counsel for him saying anything further why the judgment of the court should not now be pronounced against him on the verdict of guilty heretofore rendered.

The said Patrick Eugene Prendergast shall be hanged by the neck until dead, etc.

the disturbances subside and peace is restored.

This determination on the part of the President was arrived at after an interview with Secretary-Treasurer Hayes of the Knights of Labor, McGuire and C. N. French of the Executive committee, and Mr. Schoenfaber, who was presented to the President this afternoon by Congressman McGann and Senator Kyle, and who came bearing credentials from the A. B. L., the Pullman employees and several labor organizations.

After discussing the various features of the situation for more than an hour the President promised that if the leaders would return to Chicago and use their influence toward restoring peace and order he would appoint the commission as soon as the disturbances had ceased to such an extent as to render a careful, thoughtful investigation possible.

Promise Contingent on People.

The President laid great emphasis on the fact that no steps could be taken in this direction until lawlessness had ceased, and he made his promise contingent on the pledge of the labor leaders to see to it that so far as organized labor is concerned the trouble at Chi-

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"The fact was," said Mr. Todd, "that the prisoner was asked the usual question as to whether he had anything to say and advancing toward the Judge with a memorandum in his hand upon which he had prepared notes made a statement which occupied ten or fifteen minutes."

The court next asked for the facts as to whether the corpus delicti was proved in the trial and whether the fact of the killing was admitted by the prisoner or his counsel. He was answered that one of the counsel for the prisoner stated to the jury on the trial that the killing was admitted.

"The petition sets up," said the court, "that on the trial of the case in the State court the court instructed the jury that the only question of fact to be decided by them was the sanity of the prisoner, and that thereby the court virtually took away from the jury all consideration of the matter which formed the basis of the indictment. This, it is claimed, was not such trial by due process of law as is demanded of the Constitution. I did not think this morning that this fact, if true, would give to this court jurisdiction to review, for I do not believe the term due process of law is meant to apply to any particular trial but to the action of the Legislature and to State polity. If it was an error it is one for the Appellate Courts of the State to review. It is admitted that evidence was introduced as to the killing, and a remark of counsel admitted the fact of the killing. The instruction of the court merely stated the questions then at issue. There are other objections raised in the petition—one that the prisoner was not given an opportunity to give reasons why the sentence of the court should not be pronounced upon him. It does not appear that such was the fact. The bill of exceptions is silent on this point, and on an answer the fact could not be truthfully traversed. I do not believe that the testimony of Judge Horton was a violation of the constitutional rights of the prisoner. For these reasons, without stating them in form, I overrule the petition for a writ.

Refuses to Grant a Stay.

"I am now asked to grant a stay of execution. There is no provision of law compelling the court to grant such an order. The law does provide that pending an appeal the execution of the sentence shall be void. Where no reason appears and the effect would be simply to delay the officers of the State in executing the sentence this court ought not to grant the stay. The State officers must be responsible for the execution of the sentence. Not only that, but this prisoner has had opportunity to take a bill of exceptions to the Supreme Court, where these questions could have been raised, but he has not done so. The collateral remedy of the habeas corpus writ is wholly within the discretion of this Circuit Court. I overrule the petition for such a writ because it is not well taken and because the court is not willing to exercise the discretion given it under the law."

"We ask for an appeal," said Mr. Gregory. "I don't see how the court can grant an appeal. The petition for an appeal may be filed and entered of record."

"To the latter order Mr. Morrison objected, but the court allowed the useless petition to be filed. As the party passed from the courtroom John Prendergast said the last hope for his brother was gone.

When Mr. Gregory was beginning his argument on the question of a stay Judge Grosscup interrupted him long enough to dictate a telegram to Judge Woods at Indianapolis re-

fore Judge Grosscup was so positive Prendergast had been refused his constitutional right to be asked if he had anything to say why sentence should not be pronounced on him that a reporter for THE TRIBUNE made an examination of the record in the case as to this point. He applied to Chief Clerk Dunne of the Criminal Court, who afforded him the desired opportunity. On page 247 of the official record of the proceedings before Judge Brentano Feb. 27, 1894, the facts are set forth in legal phraseology that the court had under consideration a motion for a new trial, which motion was overruled, and proceeds:

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This official record, which presupposes that the usual question was asked, was made up from the minute-book of records kept by Deputy Clerk Fitzgerald. The records in the minute-book are written according to an original system of abbreviated long hand, and the whole proceedings in the case Feb. 24 are literally recorded as follows:

Saturday, Feb. 24, 1894. Present Hon. Theodore Brentano, Judge of Superior Court, etc. Patrick Eugene Prendergast, murder. Mo. for a new trial (he) entd. ovid. except., mo. in err. of judg. Mo. ovid. Patrick Eugene Prendergast, murder. Sen-

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There is no disposition on the part of the administration to weaken in the stand which it has taken, but the President fully realizes the gravity of the situation, and, while he will not temporize with the lawless element, he is



WOMEN VISITING THE CAGED RIOTERS IN THE MARSHAL'S OFFICE.

framed on vrdt. to be hung bet. the hours of 10 a. m. and 2 p. m., Friday, March 23, 1894. Time of filing bill of exceptions, extended to March 23, 1894. R.

Chief Clerk Dunne said: "The point is a technical one, and the records in the minute-book can have no standing in court. The courts have held that minute-book notations are not to be accepted as official records, except in cases where the official records have never been made up or written up from the minutes. Mr. Fitzgerald, who made the entry in the minute-book, is away on a vacation now. The record was made up by another clerk from his minutes, and there is no clerk now present who was in court when the Judge passed sentence. It was taken as a matter of fact that the usual questions were asked. Attorney Gregory ought to have known that the official record practically so certifies, for he secured an original transcript of the record to take before the Supreme Court."

The files of THE TRIBUNE and other city papers show that Prendergast was asked the question and that in response he went forward with a memorandum and made a long, meandering statement.

While Mr. Gregory was urging the assassin's

determined to do all in his power to reach a permanent solution of labor questions.

A telegram was received by the President, tonight from President Gompers of the Federation of Labor asking him to come to Chicago, or send a representative, to consider with prominent labor leaders concerning the situation.

Representative Larry McGann has made strenuous efforts to secure the appointment by the President of this commission. He has been cooperating vigorously with the labor leaders and accompanied them today. The party called the attention of the President to the concluding sections of the general arbitration law which was approved Oct. 1, 1888, and which was passed at the first session of the Fifty-fifth Congress.

This law has been frequently quoted in connection with the present strikes, but attention has been directed chiefly, if not exclusively, to the first five sections, which provide for a Board of Arbitration to settle difficulties between transportation companies and their employes. This part of the act has been found practically useless in the present strike, because it requires that both parties to the controversy shall first agree to submit their differences to arbitration. Congressman McGann and the Representatives of the Knights

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"I had full authority from President Debs of the American Railway Union and W. Heathcote of the Pullman employes to represent their interests and act on their behalf. The President seemed pleased to receive us, and immediately opened the subject by referring to the law which the parties thereto desired to see enforced.

"The President finally decided to appoint the commission and at once so informed us at the same time stating that he would call the arbitrators either tomorrow or next day. We expect to secure much more from this arbitration than the final settlement of the present difficulty in Chicago. Which is in itself a great victory for labor organizations and everything that the American Railway Union has fought for, it gives our recognition to the justice of their demand for arbitration, and it will lead much better, for in the movements of the future defects of the present arbitration law have been made apparent by actual experience prompt steps will be taken to amend the same."

Hudson's Plan for Court Arbitration.

A bill to prevent and settle strikes, to be by arbitration all differences between employers and employes, and to provide a remedy for refusal or failure to abide by the decision of arbitrators has been introduced by Representative Hudson of Kansas. It provides that all disputes as to wages, hours of work, the right to discharge or quit shall be submitted to three arbitrators appointed by a Circuit Court in all cases where the courts or United States military authorities may be invoked.

Persons guilty of disturbing the peace of employers without having applied for arbitration shall be deemed guilty of malfeasance in office. The same rule shall apply to employers who reduce wages or discharge without submitting the case to arbitration. In all of the last cases employers shall be liable for the full amount of wages unearned by employes shall find other employment within a period not to exceed one year, nor can they appeal upon the United States forces for protection until they have applied for arbitration.

The cost to the United States of putting down the railway strikes in the West estimated by government officers at \$1,000,000. It may foot up more. Estimates include telegraph bills, Deputy marshals' pay, and transportation and maintenance of United States troops. The estimate for marshals' pay in Chicago alone is \$150,000 to \$200,000, and Congress a few days will be asked to appropriate that it is urgent. The Treasury Department ordered the resumption of shipment of money between Subtreasuries.

DEBATE THOROUGH INVESTIGATION.

House Committee on Commerce Will Get Action at Once.

WASHINGTON, D. C., July 12.—[Special.] A snag has been encountered at the State and Foreign Commerce committee looking to the investigation of the cause of the recent strike at Chicago. Chairman submitted a report from the committee this morning in which it was stated:

"We are thoroughly satisfied that there is to be a diligent and searching investigation of the existing grave interruptions to and in connection with commerce among the several States to the end of effectual prevention to them in the future."

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