inquire whether the federal questions relied on in fact arise on the face of this record. One statute to which objection is made was approved March 5th, 1864, and has been in force since July 2nd, of that year. The complaint is that the trial court, acting under this statute and in accordance with its requirements, compelled petitioners against their will to

SUBMIT TO TRIAL

by a jury that was not impartial, and thus deprived them of one of the fundamental rights which they had as citizens of the United States under the National Constitution, and if the sentence of the court is carried into execution, they will be deprived of their lives "without due process of law."

In Hopt vs. Utah 120 U. S. 430, it was decided by this court that when a challenge by a defendant in a criminal action to a juror for bias, actual or implied, is disallowed, and the juror is thereupon peremptorily challenged by the defendant and excused, and an impartial and

COMPETENT JUROR

is obtained in his place, no injury is done the defendant, if, until the jury is completed, he has other peremptory challenges, which he can use. And so, in Hayes vs. Missouri, 120 U. S. 71, it was said: "The right to challenge is the right to reject, not to select, a juror. If from those who remain an impartial jury is obtained, the constitutional right of the accused is maintained."

Of the correctness of these rulings we entertain no doubt.

We are therefore confined in this case to the rulings on the challenges to the jurors who actually sat on the trial. Of these there were but two, Theodore Denker, the third juror who was sworn, and H. E. Sanford, the last who was called and sworn after all the peremptory challenges of the defendants had

BEEN EXHAUSTED.

At the trial, the court construed the statute to mean that "although a juror, called a juryman, may have formed an opinion based upon rumor or upon newspaper statements, but has expressed no opinion as to the truth of the newspaper statements, he is still qualified as a juror if he states that he can fairly and impartially render a verdict thereon in accordance with the law and the evidence, and the court shall be satisfied of the truth of such statement. It is not a test question whether a juror will have the opinion which he has formed from the newspapers changed by evidence, but whether his verdict will be based only upon the account which may here be given by the witnesses under oath." Interpreted in this way, the statute is not materially different from that of the Territory of Utah, which we had under consideration in

HOPT VS. UTAH,

supra, and to which we then gave effect. As that was a territorial statute passed by the territorial legislature for the government of the territory over which the United States had exclusive jurisdiction, it came directly within the operation of article 6 of the amendment which guaranteed to Hopt a trial by an impartial jury. No one at that time suggested a doubt of the constitutionality of the statute and it, was regarded both in the territorial courts and here as furnishing a proper rule to be observed by the territorial court in impaneling an impartial jury in a criminal case. Indeed, the rule of the statute of Illinois as it was construed by the trial court is not materially different from that which has been adopted by the courts in many of the states without

LEGISLATIVE ACTION.

Without pursuing this subject further it is sufficient to say that we agree entirely with the Supreme Court of Illinois, in the opinion that the statute on its face as construed by that court is not repugnant to section 9, article II, of the constitution of that state, which guarantees to an accused party in every criminal prosecution, a speedy trial by an impartial jury of the county or district in which the offense is alleged to have been committed. As this is substantially the provisions of the Constitution of the United States on which the petitioners now rely, it follows that even if their position as to the operation and effect of that Constitution is correct, the statute is not open to the objection which is made against it.

THE COURT

then reviewed freely the precedings of the state court in the examination of jurors Benker and Sanford and sustained the rulings of Judge Gary in the matter touching the challenge of these two jurors by the defendants for cause. In Reynolds vs. United States, 98 United States, 145-156 it was decided by this court that in order to justify a reversal of the judgment of the Supreme Court of the Territory of Utah for refusing to allow a challenge to a juror in a criminal case on the ground that he has formed and expressed an opinion as to the issue to be tried, it must be made clearly to appear that upon the evidence the court ought to have found the juror had formed such an opinion, and that he could in law be

DEEMED IMPARTIAL.

The case must be one in which it is manifest that the law left nothing to the conscience or the discretion of the court. If such is the degree of strictness which is required in ordinary cases of writs from one court to another in the same general jurisdiction, we ought to be careful that it is not at all relaxed in a case like this when the ground relied on for a reversal by this court of the judgment of the highest court of a state, is that the error complained of is so great as to amount in law to a denial by the state of a trial by an impartial jury to one who is accused of crime. We are unhesitatingly of the opinion that no such case is disclosed by this record.

WE COME NOW

to consider the objection that the defendant Spies was compelled by the court to be a witness against himself. He voluntarily offered himself as a witness on his own behalf, and by so doing he became bound to submit himself to proper cross-examination. The complaint is that he was required on cross-examination to state whether he had received a certain letter which he was shown purporting to have been written by Johann Most and addressed to him and upon his saying that he had, the court allowed the letter to be read in evidence against him. This it is claimed was not proper cross-examination. It is not contended that the subject to which the cross-examination related was not pertinent to the issue to be tried. Whether a cross-examination must be confined to

MATTERS PERTINENT

to the testimony in chief, or may be extended to matters in issue, is certainly a question of state law in the courts of the state and not of federal law.

Something has been said in the argument about an alleged unreasonable search and seizure of the papers and property of some of the defendants and their use in evidence on the trial of the case. Special reference is made in this connection to the letter of Most about which Spies was cross-examined, but we have not been referred to any part of the record in which it appears that an objection was made to the use of the evidence on that account and upon this point the supreme court of the state in that part of

ITS OPINION

which has been printed with this motion, remarks as follows: "The objection that the letter was obtained from the defendant by an unlawful seizure is made for the first time in this court. It was not made on the trial in the court below. Such an objection as this which is not suggested by the nature of the offered evidence but depends upon the proof of an outside fact should be made on the trial. The defense should have proved that Most's letter was one of the letters illegally seized by the police and should then have excluded or opposed. Its admission on the ground that it was obtained by such an illegal seizure. This was not done and therefore we cannot consider the constitutional questions supposed to be involved."

Even though the court was wrong in saying that it did not appear that the

MOST LETTER

was one of the papers illegally seized, it still remains uncontradicted that no objection was made in the trial court to its admission on that account.

To give us jurisdiction under section 709 of the Revised Statutes, because of the denial by a state court of any "title, right, privilege or immunity claimed under the Constitution, or any treaty or statute of the United States, it must appear that such a title, right, privilege or immunity was specially set up or claimed at the proper time and in the proper place. To be reviewable, the decision must be against the right so set up or claimed. As the supreme court of the state was reviewing the decision of the trial court, to make the question reviewable here, it must appear that the claim was made in

THAT COURT

because the Supreme Court was only authorized to review the judgment of that court for errors committed there and we can do no more. This is not, as seems to be supposed by one of the counsel for the petitioners, a question of waiver of a right under the Constitution, laws or treaties of the United States, but a question of claim. If not set up or claimed in the proper court below, the judgment of the state court in the action is conclusive so far as the right of review here is concerned. The question whether a letter obtained as claimed would, have been competent evidence is not before us, and therefore no foundation is laid under this objection for the exercise of our jurisdiction.

As to the suggestion by counsel for the petitioners Spies and Fielden, that Spies, having been

BORN IN GERMANY

and Fielden in Great Britain, they have been denied by the court below some of the rights guaranteed to them by the treaties between the United States and their respective countries, it is sufficient to say that no such questions were made and decided in either of the courts below, and they cannot be raised in this court for the first time. We have not been referred to any treaty, neither are we aware of any, under which such a question could be raised.

Being of opinion therefore, that the federal questions presented by the counsel for the petitioners, and which they say they desire to argue, are not in fact involved in the determination of the case, as it appears on the face of the record, we deny the writ.

The decision of the court was unanimous.

EXPECTED.

CHICAGO, Nov. 2.—The first news of the decision of the Supreme Court in the case of the condemned anarchists was taken to the county jail by an Associated Press reporter a few moments after it had been received from Washington. Jailor Folz expressed no astonishment, saying merely, "Well, it is just what we expected." There were no visitors in the jail and the prisoners were all in their cells when the news arrived.

A NOTE

was sent up to Spies telling him the writ had been denied and asking if he had any statement to make in regard to the matter. Spies was sitting in his cell busily engaged with some manuscript. He read the note and returned it with the short answer, "I have nothing to say." None of the other prisoners would say anything either. Within fifteen minutes after the verdict was announced, eight or ten officers in citizens' clothes appeared, and quietly disposed themselves about the building and neighborhood. Without any previous intimation, a rule rigidly debarring visitors from the jail was quickly put in force and no one was allowed to enter the building during the afternoon, except officers, reporters and relatives of the anarchists.

As soon as the news from Washington had generally circulated through the city a miscellaneous

RUSH OF PEOPLE

came to see the condemned men before it was too late. They entered the sheriff's office in a drove, but the burly deputy who guarded the way to the jail yard was obdurate. Friends of the doomed men bearing baskets of delicacies for them begged admittance. The dainties were passed in but only the relatives gained entrance.

Sheriff Matson said: I don't want to make any fuss about it, but the visits of other anarchists have got to stop. Personally, I would like to grant the doomed men all the favors I could, but I don't think it would be wise to do so, and it may seem foolish, and perhaps is foolish, but their friends might give them daggers or poison, and although if they wanted to kill themselves we might be powerless to prevent it, still I shouldn't like to have it said that if I had attended to my duty the suicides might have

BEEN PREVENTED.

The first of the relatives of the condemned men to visit the jail was Mrs. Engel. She moved about in a nervous manner as though she could scarcely realize that the last slender thread of hope had broken. Lingg's aunt and young lady cousin and one of his admirers came next. They were all downcast with the traces of tears on their cheeks, but they had not been talking to the reckless bomb maker five minutes when they were all laughing and their mirth sounded strangely incongruous with the feelings of most of those present.

Frank Beifeldt, of the *Arbeiter Zeitung*, came next, shortly followed by Spies' two brothers and his mother, who seemed to feel her sorrow deeply. Mrs. Parsons and her two children came and with them a

LADY INTERESTED

in the work of the amnesty association. Every one of the prisoners had the semblance at least of positively cheerful spirits. Mr. Beifeldt after leaving the jail said:

"It is useless to ask those men to sign a petition to the governor for their lives. I have just been talking to them and they laugh at the idea."

A significent incident of the day had its scene at police headquarters. The moment the word of the decision was received, all the detectives in the building disappeared with amazing suddenness. As to what districts or places they were assigned, their superiors were non-committal. It is known, however, that for some days the men have had sealed instructions to act as soon as the decision was received. "We will not be caught napping," was all the officers would say. It is asserted that preparations are already going on for

THE HANGING.

The ropes, it is said, have been ordered. An additional scaffold will have to be built, and preparations were going on for this today. Already the morbidly curious of Chicago, as well as outside, are sending in requests for tickets to get in the jail on the 11th inst.

Letters by the score are arriving daily from provincial journalists who desire to have a representative on hand. They will all be coomed for disappointment. The sheriff will admit only the representatives of the city press and Press Association, members of the jury and the attorneys, as provided by law. Everything is perfectly quiet in and around the jail, and in fact, all over the whole city. The denial of the writ was what was universally expected here. The police are prepared for any emergency, though they say they have no fear of open violence. The police have all thought the Supreme Court would not interfere, and the

GENERAL IMPRESSION

among them is that the sentence will be carried into effect November 11th. The sentiment of the police is one of satisfaction at the result of the hearing in the Supreme Court.

Captain Buckley said: The Supreme Court has upheld a right and just verdict and a just decision of the state courts. It is retribution for the murder of the officers, whose wives are now widows and children orphans. I trust and believe that the governor will not interfere.

This is a fair expression of the sentiment of the police officials and men.

This afternoon a small boy appeared at one of the most prominent down town corners, provided with a supply of pamphlets containing

M. M. THUMBULL'S

appeal to Governor Oglesby in behalf of the condemned men. Officer Birmingham quickly put the boy to flight by telling him he would arrest him if he did not stop selling the books. There is nothing seditious about the pamphlets, it being merely Trumbull's speech. It is bound brilliantly and is entitled; "Was It a Fair Trial—An Appeal to the Governor of Illinois in Behalf of the Condemned Anarchists." The sergeant of the central police detail said the officer acted on his own judgment. "He was probably misled by the general style of the title," the sergeant added. "But I think it is much better at the present time that circulars of even such a kind as this be stopped, as it can only stir up the people without doing any good."

The only persons, except the relatives, who had any extended conversation with the

CONDEMNED MEN

to-day, were M. W. Salter, a lecturer, and H. D. Lloyd, a newspaper editorial writer. The were in earnest conversation at the cell doors for two hours. The gentlemen kept their object a profound secret, but it is intimated their visit had something to do with the scheme to get two or three of the Chicago newspapers to come out editorially in favor of a commutation of the sentence. The visitors said the significance of their visit would develop in a few days. Mr. Salter said Fielden had stated he was misrepresented when a local paper made him say: "He would not ask Governor Oglesby to pardon him." By that it is understood Fielden will ask for a commutation of sentence.

Captain Black said to a reporter this evening that he was disappointed but

NOT SURPRISED

at the action of the Supreme Court, as they were clearly entitled to the writ of error under the decisions of the Supreme Court prior to this time. Captain Black and a large party will go to Springfield next Tuesday to present a petition for commutation to the governor.

Ex-Governor Palmer this evening said to a reporter he did not believe Governor Oglesby would interfere with the execution of the court's sentence upon the condemned men. "The highest court in the land," said Governor Palmer, "has decreed this verdict a just one. Governor Oglesby is not going to be swerved in his manifest duty by any trifling consideration. As for the idea of its

BEING INHUMAN

to hang these men, I can see no sense in that. They killed seven policemen, did they not, and wounded many more? was that humanity?"

SPRINGFIELD, Nov. 2.—There is absolutely nothing to be said as to the probable action of the governor in the case of the condemned anarchists, as his excellency declines to say anything on the subject. The decision of the United States Supreme Court was made known to him shortly before noon today and his features at once assumed an expression of real gravity. He received a number of letters and petitions on the subject today, and it is asserted that three Chicago ladies visited him in the interest of the condemned men. The feeling is

ALMOST UNIVERSAL

here that he will not interfere with the sentence of the court and that the conditions are such that he cannot. There is a bare possibility that he may interfere and grant clemency in the interest of Fielden and Schwab, though he has not said anything to indicate even this.

NEW ORLEANS, Nov. 2.—A dispatch to the merchants here from Planter Laccasagne of Tigerville says:

THE STRIKERS

shot four of my laborers this morning from ambush. I have telegraphed the governor for troops. Please see that they get off at once.

The Washington artillery were informed of the tenor of the dispatch and the officers are awaiting the action of the governor. Yesterday forty-five white laborers were sent to the Laccasagne plantation to fill the places of the strikers, but whether the four men shot and ambushed this morning were among this number or of those remaining upon the plantation is not known here.

A special to the *Times-Democrat* from Tigerville says regarding the shooting on Greenwood plantation this morning that no

ONE WAS KILLED,

but several persons were slightly hurt. All is quiet now as the new men have left.

Dispatches from many plantations up the river indicate that the hands are striking all over, and in many places have been given the alternative of returning to work or leaving the place. Trouble is expected to ensue when an effort is made in a day or two to force the strikers to leave the plantations.

NEW HAVEN, Conn., Nov. 2.—John Hodel, a silk weaver living at Hebron, shot his wife last night and then set fire to his house. Two children were burned to death. Hodel fled but was afterwards arrested.

Hodel has been on a spree for about a week, and when himself, was a quiet, good-natured fellow, but drink made him crazy. He tells the

FOLLOWING STORY:

Last night I told my wife I was going to kill myself. She said she wanted to die, too. An agreement was made that the whole family die together—two boys, aged three and six, and the mother, who expected to be confined again in a month. During the night I brought the two children from the adjoining room and placed them in the bed with their mother and myself and set fire to the bed, but the smothering process was too slow, so I got a shotgun and fired both barrels into my wife's breast, killing her instantly. The flames then spread and soon smothered both the children. I then went down stairs, tapped on the window of the lower tenement bedroom and called them to come and see what I had done.

It is said Hodel thought that certain neighbors were too familiar with his wife; that he accused her, and that this caused the quarrel, hence the agreement to kill all of the family.

THE JURY FIXER.

SAN FRANCISCO, Nov. 2.—Governor Torres, of Sonora, has informed Governor Waterman that ex-State Senator D. J. Creighton, the fugitive jury fixer, was now in Guaymas, and offered, if a formal demand was made upon him, to order the arrest of Creighton and return him to American soil. Governor Torres said he was well aware that the offense of which Creighton was convicted was not extraditable, but as a friendly act on the part of Mexican officials he would deliver him to the California officers. The papers have been prepared here and forwarded to Governor Waterman for signature, and will be sent to Hermosillo, the capital of Sonora, by a messenger authorized to arrest Creighton and bring him back here for sentence, if in the meantime he has not

LEFT THE COUNTRY.

GOLDENATE, W. T., Nov. 2.—T. J. Timmerman, convicted of murder, has been sentenced to be hanged Friday, Dec. 16th.

VICTORIA, B. C., Nov. 2.—Particulars of the shooting at Kamloops, Saturday night, are just received. A half breed Indian named McLean, while drunk, fatally shot two Indians and wounded a third. McLean was shot in the arm. He went home, got a fresh horse, told his wife he had killed two men and would kill as many as possible. He then kissed her good bye. When a short distance from home an Indian shot McLean through the heart.

HOLBROOK, Arizona, Nov. 2.—The north and south mails were held up

BY ONE MAN

about midnight, October 31st, between St. Johns and Navajo. The mail going south was taken first, and lest the driver should warn the north going mail the highwayman detained him two hours until the mail going north came along, which was also robbed. No passengers with the south mail. The north mail carried one passenger, who was robbed of $80.