

The Cake-Walk Homicide.**TRIAL OF EX-POLICEMAN PATRICK M'DONALD FOR THE MURDER OF DANIEL BROWN, COLORED—EXAMINATION OF WITNESSES FOR THE STATE.**

[Reported for the Baltimore Sun.]

The very considerable difficulty of procuring a jury in the murder trial of Patrick McDonald in the Criminal Court was not surmounted until 11 A. M. yesterday, the second day. McDonald, who was a policeman, is charged with the murder of Daniel Brown, colored, last July. About three in every four of the talesmen, when asked the question, said they had formed and expressed opinions which would prevent them from giving a fair and impartial verdict, they thought. About one in eight was the proportion of those opposed to capital punishment for crime.

THE JURY.

The jury, as completed, are: Robert G. Williams, foreman; J. Hanson Thomas, Jr., J. M. Getz, Duncan N. Robb, William S. Tyler, R. Lewis Whiteford, Andrew J. Hankey, H. C. Waggoner, Josiah Kinzle, Solomon Brown, Abert H. Shook and James Boyle. The jury have the appearance of citizens who have some stake in the community and of good sense, their ages generally ranging between thirty and forty years.

OPENING STATEMENT.

Mr Knott, the State's attorney, made the opening statement for the prosecution. He defined murder under the law, and spoke of the crime of murder as the most terrible of crimes, and irreparable. He said the facts would show that Brown was shot to death in his own house, in the presence and almost in the arms of his wife. The policeman had no right to enter the house of Brown: his duty was to report the place if it was too noisy, but he did not content himself with that. That house, however humble it was, in the eye of the law was the castle of its occupant, made so by one of the most glorious maxims of the law of English liberty. The lowly thatched cottage is as much the castle of its owner as the marble palace or battlemented walls.

Mr. Poe stated that the defense would reserve their statement until they heard the evidence for the State.

THE WITNESSES EXCLUDED.

John Henry Gresham, colored, was called and sworn, when Mr. Hambleton, of counsel for the defense, asked that the witnesses of both sides, other than the one on the stand, who saw the shooting and *res gestae*, be excluded from the court room, and this was done, the physicians and the witnesses to character remaining.

TESTIMONY FOR THE STATE.

Gresham testified that he was a seafaring man, and had lived for the past six months in the house No 41 Tyson street, occupied by Daniel Brown; he had shipped on the Grey Eagle, bound for Rio, and as he was going away he thought he would repay the like acts of hospitality of Mr. Brown by giving a little entertainment to his friends before leaving, and he did so on the night of July 31st. A policeman came to the door, he did not know what time of night it was; his wife went to the door, and he asked her what is the trouble; she made no answer, and he went to the door himself, when his wife remarked, "Why it is a policeman," the policeman asked if it was a cake walk, pay party, ball, or what was it? witness answered it was neither, it was a little sociable entertainment; the policeman said he had heard a great noise there; he heard it clear up to Lehmann's Hall, to look out how witness talked, and that if he heard any more of the noise he would take them all to the station-house.

Witness replied, "We have your orders, sir, and calculate to abide by them." The policeman asked who was the proprietor. Witness answered that he was of the entertainment, and Mr. Brown of the house. Witness was drinking a glass of soda water in the back room when the policeman came to the door, and after the conversation at the door witness went back and took up his glass, calling Mr. Brown to the door. Witness was about to make a jocose remark about a toast to a Mr. Boston, a guest, when they heard a rushing and noise at the front door, and looking around he saw the policeman strike Mr. Brown with his espantoon. Brown made his way back into the kitchen, and witness went to meet the policeman and laid his hand on his arm, saying "Please don't raise any disturbance here; we have your orders and calculate to abide by them." He had his pistol in his hand, cocked, when witness put his hand on him; saw him draw and cock it as he met him. The policeman kind of hesitated a quarter of a minute and then said, "I'll shoot the black s— of a b—;" that's what he said; at that he rushed by and shot Brown: did not actually see the shot fired; whether he had turned his back he does not know. The policeman then cocked his pistol again, and said, "I'll shoot every s—n of a b—h in here. Witness said, "For Heaven's sake don't shoot any one here." "Well get out of here, then," the policeman replied, and witness went out the front door and went around the street by Park avenue to the back door, meeting his wife. There he found Mr. Brown lying in the back room on the floor. They were propping up his head with pillows. Mr. Brown asked witness to go after the doctor, and Dr. Gamble came in a few minutes. Dr. Gamble said he could do nothing for him, and Brown died an hour or more after. At the entertainment they had cakes, candy, watermelons and ginger beer but no intoxicating liquors.— They had no dancing, but played ring plays and such things. Witness left for Rio in a few days, but not the next day, as he intended; he returned on the 8th instant. Does not know how many persons were there, but believes they are about all summoned as witnesses. Boston, the man he mentioned before, ran off as soon as the policeman came in, and did not come back for his hat even until next day.

CROSS-EXAMINATION.

On cross-examination by Mr. Poe the witness said he arrived in port July 14, in ship McCaulay, from Liverpool: the party commenced about 9 o'clock on the night of 31st July, when the policeman came to the front door witness was at the kitchen table with Boston, standing, and Brown was lying on a lounge in the same room; there were others in that room and some in the front room, but he cannot name those in each room any further than he had, his wife stayed so long at the door that he went to see what was the cause, he stood outside on the steps, the policeman also on one of the steps, while they talked; his wife was in the room near the door; witness left the door and went back as Brown came in answer to his call to the door, the door was open from the time the officer came in until after the shooting; the rush he heard was made by the officer and Dan: Wm. Coates, Richard Coates, and Mary Dashield, were present, and they also lived in the house, Johnson, Trusty, Pinkett, Boston with others, he thought, were there. The witness was put through a rigid cross-examination, but stood it well.

ANOTHER WITNESS.

Milly Gresham, wife of the preceding witness, testified that she went to the door, and seeing it was a policeman, stepped back and her husband came to the door; she neither saw the shooting or the blow struck, but she heard the report of the pistol, and heard Mrs. Brown cry, "O! Milly, he's shot him." The party was about breaking up when the policeman came. They had plays and some singing. Mrs. Miller, a colored neighbor, had called to them that there was some complaint of their noise.

On cross-examination by Mr. Hambleton she said there were seventeen persons at the entertainment; she could not say when it commenced, but it closed between 1 and 2 o'clock A. M. Mrs. Brown had been washing and ironing at home that day, and the flat-irons were kept in a closet under the stairs in the back room. There was a coal stove in the room, and the raker with which the fire was stirred up was hung up near the stove. The door in the rear is on one side of the rear wall of the back room, and a closet is at the other corner of the rear wall. As she ran out of the rear door she saw Brown rushing into that room. Does not know how long it was before the policeman came that Mrs. Miller called to her that there was complaint of the noise. She met her husband at the back gate on Park avenue; he seemed coming from Tyson alley. She had run out the back way and he had come around from the front to the rear. There was tonic beer among the refreshments. Does not know what noise disturbed Mrs. Miller, the next door neighbor. It was not dancing, but they had singing; she sang several times, and there was a chorus of three or four voices, but the party was not as lively as usual. Mr. Brown had a razor; don't know if he shaved himself; saw him cut his corns with a razor; saw her husband have the same razor that evening; he was cutting his corns with it in their room; he left the razor on the mantel in their room.

EVIDENCE OF THE DOCTORS.

Dr. Gamble testified he was called to see the man Brown the night of July 31st. He had two wounds on the head; one was one and one-half inch long, a ragged wound, opening the scalp on the left parietal bone, done with a stick of some kind. The other was a small round wound, a gunshot wound; the ball entered the left temporal bone and went through the brain, cutting the optic nerve of the left eye, the ophthalmic artery, striking the sphenoid bone at the base of the brain, and was taken out over the upper part of the mouth. Witness took part in the post-mortem examination, with Drs. Bevans and Ogle.

OBJECTION TO TESTIMONY.

At this point the witness was asked if from what he saw he could state what was the position of the man's head when he was struck by the ball, and what the relative positions of the two men at the time of giving and receiving the wound. Objection was made and the point was argued by Messrs. Hambleton and Knott briefly. The evidence was admitted, the court stating that the jury were not to be absolutely bound by it, but were to give it such weight as in their minds it seemed to be entitled to, coming as the opinion does from a witness skilled in such knowledge.

The witness testified that the post-mortem showed that the person firing the pistol was on the left side and above the person shot. The person shot could not have been directly in front of the one who fired at him, but must have been more or less to his side.

On cross-examination the witness said he had had considerable experience as a medical man; it is possible for a man to throw his head around so as to be shot in the left side of the head, whichever side of him the person firing the shot may stand as to the rest of the body of the person shot; he would not say that it was impossible for the parties to have occupied different positions from that which he stated them to be in from the nature and direction of the wound.

THE CORONER'S TESTIMONY.

Dr. Ogle, coroner for the western district, testified that the ball went in a slanting direction, forward and downward; either the man shot was lower than the pistol or his head was held downwards, and he was either with the side to the person firing or twisted his head around; the man who was shot never walked after getting that shot; he may have staggered some; Brown seemed to be a young man; had no gray hairs, and may have weighed 150 or 160 pounds; the line traversed by the ball through the brain is not conclusive as to the position of the parties, but an inference as to their positions can be drawn from the direction; the medical profession do not make claims to mathematical certainty in such matters. The witness concurs in what was said by Dr. Gamble generally. Court adjourned till this morning.