

SHOOTING OF McNAMARA.

THE RIGHTS OF PRIVATE DOMICILE—EVERY MAN'S HOUSE HIS CASTLE—ACQUITTAL OF DETECTIVE LEAHY.

In the Court of Oyer and Terminer yesterday, before Judge Brady, the trial of Detective Patrick J. Leahy for the shooting of Michael McNamara was resumed. Mr. Hall summed up on behalf of the prisoner, commenting on the prejudice created against him through the hostile action of the press, and criticizing strongly the overzeal exhibited on the part of the District Attorney.

The District Attorney replied on behalf of the prosecution, denying that the old legal platitude that a man's house was his castle prevailed in this country. He insisted, however, that there was a trespass on the rights of the citizen in breaking in McNamara's door, and the gross carelessness shown by the prisoner on the occasion justified his conviction of manslaughter.

In charging the jury Judge Brady disagreed with the proposition advanced by the District Attorney that in this country a man's house was not his castle. It was as much his castle here as it was in England, and before it could be entered the forms of law should be observed to the letter. A public officer was entitled to the protection of the law in the discharge of his duty, but he was entitled only to the same protection accorded to any private citizen. This case had a peculiar importance, since it involved the rights of a citizen to the enjoyment of privacy in his own house, and the power of the Police, but it should be decided without any fear of the consequences—these the court assumed. Every man who accepted an office assumed a responsibility for the execution of its powers; he must execute them according to the law, and if he departed from the law he should be punished as any ordinary citizen. The jury should discharge their duties without reference to public clamor. No clamor could affect him, and he trusted they were equally indifferent to it. It was conceded in reference to this shooting that there was no intent to kill, otherwise the indictment would charge murder, and not manslaughter. The officers were in pursuit of a felon, a bad and desperate character who previously attempted the life of a policeman. What did they do in conformity with the official instructions they received? In considering that question he charged that Police officers may act on a reasonable suspicion that a felony has been perpetrated. He asked was there in this instance a reasonable ground to suspect that Dutch Harmon was the person who committed the felony, and in this connection he drew attention to the circumstances connected with the murder of the watchman, Schweich. A man's house *was* his castle. An officer who desired to enter it armed with the authority of the law should announce his character, and demand admission before resorting to violence, otherwise he was a mere trespasser, even though the felon of whom he was in pursuit was actually within the domicile. The jury was to decide whether the officers properly announced their true characters and the purpose of their visit. He drew attention to the evidence on this point as published, observing that even if they announced their purpose they had no right to go into a private house without some reason justifying their action. He charged that the mere announcement that they were Police officers and in pursuance of a proper purpose was enough to place them in the right so far as to obtain a parley with the occupants inside, and they should determine whether in that respect they acted without reasonable time. If the shot was fired designedly, even though all the forms of law had been complied with, the accused was guilty of manslaughter in some or either of its degrees. If, on the other hand, all the forms of law had been complied with, and the shot was accidental, then it was a mere mischance, and they should find the prisoner not guilty. The Judge dismissed the jury with the customary directions as to their verdict on the evidence.

The jury retired at 1:45, and at 5:05 returned a verdict of acquittal. Judge Brady then ordered the discharge of the prisoner. He was accordingly released, and received the congratulations of his friends of the Police Department. Leahy was suspended from service during the pendency of the trial, but it is understood that he will immediately be reinstated.