

THE TRIAL
OF
FRANK KELLY,
FOR THE ASSASSINATION AND MURDER OF
OCTAVIUS V. CATTO,
ON OCTOBER 10, 1871.

Also, an account of the murders of LEVI BOLDEN, ISAAC CHASE AND JACOB GORDON. A full account of the wounds inflicted upon Henry Lewis, George West, John Fawcett, Charles Johnson, John Harkness, James Chippey and others.

"IN THE MID'ST OF LIFE, WE ARE IN DEATH!"

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P R E F A C E .

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In the publication of this pamphlet may be found a record of events, that occurred a day long to be remembered among the citizens of Philadelphia for mob, riot, and bloodshed, that ever was known in history, with but one exception—and that known to the citizens of New York city, when colored men were hung to the lamp-posts.

The morning of Tuesday, (October 10th, 1871) opened with the streets (including the territory bounded by Fifth, Eighth, Pine and South streets) crowded with feverish mobs of blacks and whites, ready for mischief. The polls within this district were crowded before the windows were opened, and from the outset of the voting disorders continued, in which the sufferer was, as a rule, a colored man and the aggressor either a policeman or one or more of the ruffianly whites with whom the neighborhood on this day was particularly infested with. These disorders were greatest at the poll of the Eleventh division of the Fifth ward, at Sixth and Lombard streets, where the voters, contrary to all precedent, were ranged in two lines, one of blacks, the other whites, between whom there was a perpetual struggle to get in votes of the rival races, resulting almost invariably either in the colored man giving up the attempt or else a fight, in which after a drubbing by his white antagonist he would be arrested and locked up.

Shortly after Court opened complaints by colored voters of this condition of affairs began to pour in, and soon became so frequent that Judge Allison sent for Mayor Fox and informed him that from sworn affidavits of qualified voters it was shown that the poll at Sixth and Lombard streets was actually in possession of his police, and that they were preventing by violence colored men from voting. The Mayor promised that this should be remedied, and proceeded to Sixth and Lombard streets, quieted matters and returned to his office. No sooner was he absent than the outrageous conduct of the policemen and their party associates was resumed, and again complaints were brought before Judge Allison, who again sent for the Mayor, who again proceeded to the disorderly locality and enforced order by the removal of the police from the immediate vicinity of the poll. Again the Mayor went away and the police outrages recommenced. All this while the bad feeling between the blacks and whites elsewhere was increasing, the bang, bang! of the pistol began to be heard at intervals, and wounded men of both races were from time to time conveyed in the Pennsylvania Hospital Ambulance to the Hospital for surgical treatment.

Within this small volume may be found a full account of the Trial of Frank Kelly, for the Murder of Octavius V. Catto. This volume is dedicated to his Memory, and to his Family and his many friends. * * * * *

THE HISTORY AND LIFE OF
OCTAVIUS V. CATTO,
AND TRIAL OF
FRANK KELLY.

Frank Kelly, charged with the killing of Octavius V. Catto, on October 10th 1871, was put on trial on Monday, April 23d, 1877. The trial was to have been begun one week ago, but was continued on account of the absence of Theodore S. Stratton, an important witness for the Commonwealth, who, in the meantime, was secured and has been kept in custody since. Assistant District Attorney Hagert and District Attorney Sheppard are prosecuting the prisoner and W. P. Bowman and Benjamin L. Temple, Esqs., are defending the prisoner.

A jury was obtained by 3 o'clock and sworn, and a recess was then taken until 4 o'clock.

When the court reassembled Mr. Hagert opened the case for the Commonwealth, and, addressing the jury, said: you have been selected out of this panel of jurors with great care, and after strict and close examination by counsel for the Commonwealth and for the defence to try this bill, wherein Frank Kelly is charged with the killing of Octavius V. Catto. The object of that care, as you must know, was to get into the jury-box twelve impartial and fair-minded men, who shall determine whether the prisoner is guilty or not guilty of the offence with which he is charged; that great care was exercised because this is an important question; because it is a very important inquiry which you are to make, by reason of the gravity of the charge against the prisoner, for no man can occupy a more solemn or more important position than that of the prisoner—a defendant charged with murder—unless it is that of you, gentlemen, who are to pass upon his guilt or innocence. It is a question important to him, and important to the community, because you and all men are interested in seeing that the laws are enforced, that human life is protected, and that men may move about the city in safety; and to you is left the determination of these important questions.

Frank Kelly was a young man at the time of this occurrence, in October, 1871, and resided in the lower part of this city, in the vicinity of Ninth and South or Ninth and Shippen street. On the 10th of October, (election day) he was in that neighborhood for the greater part of the day. In the afternoon the exact time I will not pretend to say, but about three or four o'clock, the fatal occurrence took place which has brought him here as a defendant on a charge of murder. Octavius V. Catto was a colored man, and teacher of a school for colored youth. He resided on South street, above Eighth, and on that day had gone to school in the morning, attended to his duties, and about noon a recess was taken, went to his house and took lunch, paid a visit to an institution in the vicinity, and then returned to school, reaching there about one o'clock, and remained there until two or three o'clock.

At the time of the occurrence Catto was brigade inspector, or at least an officer, on the staff of General Wagner, who commanded a brigade of colored troops in this city. There had been fighting at the polls that day, and being fearful of disorders at night, the authorities (I cannot say whether it was the Court or the Mayor) deemed it proper that the military should be placed under arms. Catto was ordered to report at head-quarters, armed, for duty. He was not like the soldier who carries a musket, and did not own a weapon; so, after leaving the school in the afternoon, he went to Third street and purchased a pistol, but no ammunition, trusting probably to getting it elsewhere. He returned towards his home by a roundabout route, and reached Eighth and Lombard streets with the pistol in his possession, but with no ammunition. As there had been trouble on Ninth street, Catto was advised to go to Eighth and down Ninth to South street, and thence home, as the safer route, and adopted the advice. When on South street he was met by a young man whom the Commonwealth says was Frank Kelly, who passed him. He either said something or did something that attracted the attention of the people there, and caused them to call out to Catto. In answer to the call, CATTO turned to reply to it, when the young man shot at him; Catto threw up his hands, and the young man shot at him again. A car came along at that time and Catto tried to screen himself by it, and ran around it to the north side. The young man followed him, and several more shots were fired. Catto either fell in the street, or in the arms of a policeman attracted to the spot by the firing of the shots. The young man who fired the shots stepped on the sidewalk on the south side of South street, until some persons urged him to leave and he then ran up to Ninth street, pursued by Mr. Samuel R. Wanamaker and Constable Barr, and then to Ninth and Bainbridge streets; he ran into a tavern at the northeast corner, and then into the back yard, where he disappeared, and what became of him was altogether unknown to the authorities. Catto was taken to the FARM, at Eighth and South streets, where he soon after died. Warrants were issued for the arrest of Frank Kelly, and he was searched for at his home and the places where he usually resorted, but could not be found. In January last it came to the knowledge of the authorities that Kelly was living in Chicago under the name of Charles Young, and, a

bill of indictment having been found against him soon after the occurrence, he was arrested and brought on here on a requisition. If the shooting occurred in that way, and if the defendant did it, it comes within the definition of wilful, deliberate and premeditated killing, and is, under the law, murder of the first degree, and you will have no hesitation in saying so. Patiently hear the witnesses for the Commonwealth and for the defence, keep your minds clear and open until they all shall be heard, and then render such an impartial verdict as you can hereafter justify to yourselves.

Witnesses were then examined:

Dr. E. B. Shapleigh, sworn.—I was the Coroner's physician in October, 1871, and made a post-mortem examination of the body of Octavius V. Catto, at No. 814 South street, on October 11th, 1871; he was between 30 and 35 years of age; I found upon the body four gun shot wounds, or wounds made by pistol balls; one was in the front part of the right arm, between the elbow and shoulder; there was another on the left shoulder, opposite the arm pit; there was a wound, as from a spent ball on the outside of the right thigh; there was another wound an inch to the right and two inches below the left nipple, the ball from this wound passed through the cartilage of the fifth rib, through the heart-sack, through the right ventricle of the heart, and was found in the pericardium; this wound caused death; I gave that ball to Mr. R. Snyder; the wound which I spoke of as being apparently from a spent ball, may have been caused by a ball fired at an angle; the wound did not extend beneath the tissues.

He was not cross-examined.

Mr. William H. Minton, sworn.—I reside at 1003 Bainbridge street; knew Catto, and was present at the post-mortem examination; it was made in the house where Catto resided; I have the bullet taken from the body of Catto; I got it three or four months after the examination from Mr. Snyder; it has been in my possession ever since. The bullet was then produced by the witness.

Cross-examined.—I am a caterer; I don't keep a restaurant; had known Catto from boyhood; first saw Catto after this occurrence at the station house; the body was dressed then, but it was not at the post-mortem examination; I asked Mr. Snyder for to get the bullet for me, and I got it as the representative of the Banneker society, the members of which were all friendly to Mr. Catto; got possession of the bullet merely as a memento; I never took this bullet to Washington or to Wilmington, and never loaned it to any one for any purpose; I kept it locked up in my secretary.

Mr. Richard C. Snyder, sworn.—I was present at the post-mortem examination of the body of Catto [bullet and letter shown]; I received that bullet and letter from Dr. Shapleigh; I gave it to Mr. Minton.

Cross-examined.—I gave the bullet to Mr. Minton in 1872; haven't seen it since; there is no mark by which I identify the bullet besides its general appearance; I am connected with the BREWERS' JOURNAL, of New York; in 1871 I was collector for my brother in the brewing business; It has been

over a year since I was at Minton's saloon; he gave me nothing for getting the bullet; I got it for him out of friendship, and because he gave me good meals when I dined at his place; I paid for all I got.

The bullet was then offered in evidence.

Mr. Temple objected that it had not been sufficiently identified. The objection was overruled and the ball admitted in evidence.

Mr. Charles P. Brown, sworn.—I am a printer, and in October, 1871. I lived in Seventeenth street, below Carpenter; I remember October 10th 1871; I was at Eighth and South streets, and saw the shooting; it was about four o'clock in the afternoon; I was on the north side of South street, going up, and had got beyond the farm pavement; (the farm was a lot on the northwest corner of Eighth and South street; it extended up to a small street on South, and three-fourths of the way to Lombard on Eighth street.) I heard a scream, of a woman, I think, and the report as of a pistol, I turned and looked down South street; the report was behind me, and I then saw two men standing in the middle of the street; I saw two flashes from a revolver, and heard the reports; I believe there was another shot fired, but I didn't see the flash, only the smoke; the shooting was between the car tracks, about half way between Eighth and Ninth streets; the man who did the shooting faced the north, and the other man had his face slightly turned towards Eighth street, but facing the man who fired; the man who did the shooting was a white man; the other man's back was towards me; after the shooting a policeman came up, drew what seemed to be a revolver, and placed it at the head of the man who had been shot; that man shook his head to the policeman and pulled his own arm by the elbow as if he had been hurt; the man who fired put his revolver in his right hand sack coat pocket; he walked on to the sidewalk on the south side of South street, and up to within three or four doors of Ninth street; the people there then cried, "Run, Frank, get out of the way, don't let them get you;" I followed him down Ninth street, he ran on the east, and I on the west side; he went into the hotel on the northeast corner of Ninth and Bainbridge streets; I saw several go in after him; I never saw him leave the hotel; I noticed him before the shooting; I noticed that his head was bandaged up with linen; after the shooting, I noticed that a piece of the bandage on the right hand side, about two inches square, was hanging down; he was walking up South street the same as I was, but on the other side; didn't notice the man who was shot, before the occurrence: the man who fired was about my own age, 20 or 21 years: he was about my size and build: his face was smooth: I have seen him since that day in the dock: I recognize the man in the dock as the person who did that shooting: I stood in the centre of the intersection of Ninth and Bainbridge streets, probably three or four minutes after the man ran in the tavern: I then went to South, and down South from Ninth street, but didn't see the wounded man.

Cross-examined by Mr. Temple—My best recollection is that I did not read of this occurrence the next day, but did several days after: I looked at the election returns in the PRESS the next morning, and looked for this affair, but

did not find it; did not see it in any paper that day: I told it to Byron Miller and a young man named Scattergood, whom I met at Ninth and South, after coming back from Ninth and Bainbridge streets; I spoke of it at home that night, and at the office the next day; didn't tell the authorities, because I thought if the man was arrested, and they wanted him identified, I could do it then; subsequently learned from the PUBLIC LEDGER that a man had been arrested as the man who shot Catto but did not tell the authorities, because the same article stated that Mr. Samuel R. Wanamaker had said he was not the man, and he had been released; didn't attend the hearing at the Coroner's because by that time I thought I had better be out of the case; Wm. B. Mann, Charles H. T. Collis, John L. Hill, and Wm. R. Leeds were in the office of Mr. Markley, my employer, when I was called down stairs to receive copy of the proclamation offering a reward, and I spoke to them then about it; they made no memorandum of writing about it then; the description I gave them was more elaborate than I have here detailed; I never was sent for to identify the man until within a few weeks; the hat he wore was a Grecian bend, either brown or black, and I described his coat as a sack coat; don't remember of reading of any other arrest than the one I refer to; I never saw or knew the prisoner before the day of this occurrence; never saw him from the time he disappeared from my sight on that day until I saw him last Monday; I was in the rear end of the room then when the prisoner came up the stairs in front of the dock, and getting a full view of his face, I said to myself that is the man, and when he turned sideways, and then his back, and sat down, and I got a side view of his face, I said to myself that's the man, sure; I wonder what he is doing here? I was present under a subpoena in this case, and I wondered why he was here, because the Chief of Police had told me the case would not come up, because one of the witnesses had been spirited away or bought off; after seeing him from the end of the room I walked down to the District Attorney, and as I passed the prisoner I looked at him, and after I left Mr. Sheppard I looked at him again in going out; I don't think I could identify the policeman who pointed what I thought to be a revolver at the head of the man who was shot; the man who fired the shots was, when he put the revolver in his sack coat pocket, about from 60 to 100 feet away from me; he was about 15 feet from the policeman, and the latter was about 60 or 100 feet from me.

SECOND DAY'S PROCEEDINGS.

The witness, Charles P. Brown, was recalled and his cross-examination was continued at length by Mr. Temple. The witness testified that he was 26 years of age on the 14th of last February and did not vote at the election in 1871; saw a man on Eighth street knocked down by a young man before the shooting; didn't notice the features of the man knocked down; he was dressed in a light suit of clothes; the man who did it was of a reddish complexion and he had a smooth face; Kelly is not the man who knocked the man down