Evidence In Murder Against Brother

DEPOSITIONS were taken by Justice D. F. Gleeson at a special sitting of the Limerick District Court to-day in the case in which Thomas Lynch (32), married, of Eyon, Brittas, Cappamore, is charged with the murder of his brother, John Lynch (36), single, by shooting him on Sunday, August 14th.

There were eighteen witnesses for the prosecution, whose case was conducted by Mr. M. M. Power, State Solicitor, instructed by Supt. E. O'Riordan, Pallas.

Mr. D. G. O'Donovan, solicitor, appeared for the accused, who reserved his defence.

The taking of eighteen depositions in the charge of murder against Thomas Lynch (32), married, of Eyon, Brittas, Cappamore, began in the Limerick District Court this morning and continued throughout the day. The depositions were taken by Justice D. F. Gleeson. The accused reserved his defence.

Mr. Maurice Power, State Solr., stated that on the 14th August, the deceased accompanied the accused in his van to a funeral at Newport. After the funeral, they had a few drinks and both were on the best of terms. During the journey home a row developed in the van. The accused stopped the van and got out and a struggle occurred on the road between deceased and accused. The accused then got back into the van and left the deceased standing on the roadway. He drove to his own house, where he got his single-barreled shotgun and two cartridges. He then proceeded to the house of the deceased. Subsequently, the deceased came out and one shot was fired, which struck the side of the house. The accused then reloaded his gun and fired a second shot in the direction of the deceased, inflicting a wound. The deceased later died from abdominal injuries.

Detective-Sergeant P. O'Driscoll, Mapping Section, Technical Bureau, Garda Headquarters, Dublin, said that on the 18th August he visited Pallasgreen, accompanied by two other Garda officers. He went to the residence of Mr. John Heffernan, Eyon, Brittas, Cappamore. He took detailed measurements of the house, which was 30 feet back from the road and 180 yards to the west of Eyon Cross.

SHOTGUN EXAMINATION.

Detective Garda Thomas O'Connor, Ballistics Section, said that on the 15th August he received a shotgun, which he examined. It was a single-barreled, breach-loading shotgun. It had an external hammer. In order to load the gun it was necessary to retract the hammer to the cock position. The rebound mechanism was defective. This would mean that if a cartridge was loaded into the chamber and the hammer retracted to a position short of the cocking position and then let fall forward, it might discharge a cartridge. The pressure for the trigger was five and a half pounds. This was a safe pressure. A twelve-bore ccartridge case was also given to him and he was satisfied that is was discharged from the gun he had examined.

He was also satisfied that a second cartridge case which he examined was discharged from the same gun. He also received eight pellets from the State Pathologist. They were of the twelve bore type. He examined the window at the rere of the house and saw a mark on the putty. It was five feet seven inches from the ground and measured one inch by ¾ inch. This mark could have been caused by a shot from a gun. Beneath the cill of the bedroom window he saw a mark on the wall which was about 3 feet 2½ inches from ground level. He removed some fragments of lead from the wall. Later he received some articles of clothing, a jacket coat which had a hole on the left side near the outer pocket. That was consistent of having been made by a gunshot. From his examination of the hole he would say the range measured from 9 feet and 15 feet from the muzzle of the gun.

BROTHER-IN-LAW'S EVIDENCE.

John Heffernan, Eyon, Brittas, a labourer by occupation, said he was employed by his brother-in-law up to the 14th August. His brother-in-law was the accused. On the 14th August witness went to a funeral at Newport and he travelled in a motor van, the property of the accused and which was driven by him. Also in the van were the deceased, John Lynch, witness's wife, Margaret, and Mrs. Ellen Lynch, the accused's wife. On the way to Newport the accused and deceased were on good terms. They arrived in Newport at 11.50 a.m., new time. They went to Mass and afterwards to the funeral. After the funeral witness went to Vincent Egan's publichouse in Newport, accompanied by Thomas Lynch (the accused), Joseph Egan, and Cornelius Kerins. While in the publichouse John Lynch (deceased) joined them in a drink. All of them including the accused and deceased, had four and a half pints each. Accused and deceased at that time were the best of friends. After leaving Egan's publichouse they all went down to the van and started for home. The same number who came in the van returned in it. They travelled via Abington and Rath, where the van stopped. Prior to their arrival at Rath, the deceased, John Lynch, and Ellen Lynch, wife of the deceased, were in conversation. The conversation was about a month in jail deceased got once. He said that he would beat Mrs. Lynch if she was worth beating because she had given him a month in jail, which he would never forget. He said he would also wait until her brothers came home from England and beat them.

HAD A FEW BLOWS.

At Rath the accused had occasion to get out of the van. It was near Barry's gate and he went to the side of the ditch on the righthand side. John Lynch, the deceased, also got out although witness tried to prevent him. He went to fight the accused. They had a few blows. The accused returned to the van but the deceased also tried to get back. In the meantime he (witness) had got out to separate them. The accused, his wife and deceased's wife got into the van and left witness and the deceased alone. They both walked home and arrived at 3.30 and went into witness's house. Deceased sat in a box in the kitchen. After about 10 minutes or a quarter of an hour he saw the accused outside the kitchen window. He was alone and had a gun in his hand. It was a single-barrelled shotgun. He had seen the gun before. One side of the window was open. Accused said something but he did not know what he said. Witness and his wife went out and his wife put up a shovel in front of the accused. There was a scuffle and a shot went off. After the shot was discharged, his son William (18) came out into the yard and witness then heard a second shot. At that time he was with his wife and son. He could not say where the deceased was when the second shot was fired. He next saw the deceased in a bedroom lying down on the floor, and the deceased had blood on his stomach. Witness remembered making a statement to the Guards and signing same.

Mr. Power, at this stage, applied to have Heffernan treated as a hostile witness on the grounds that his evidence was not in accordance with a statement made by him on August 14th.

Sergt. John Rogers said that the witness, Heffernan, made a statement to him and the statement had a bearing on the tragedy but was at variance with the evidence.

Mr. O'Donovan applied to the Justice for an order under the Criminal Justice Act, 1951, prohibiting publication of the terms of the statement as it might be very prejudicial to the accused since the case would be widely reported.

The Justice made an order prohibiting publication of cross-examination of Heffernan as a hostile witness.

Resuming his evidence, the witness said the accused fired a second shot in the direction of the line of the kitchen door. There was no person between the door and the accused, and he could not say where the deceased was at the time.

ATTENDED FUNERAL.

Margaret Heffernan, wife of the previous witness, said she was a sister of the accused. On Sunday, August 14th she accompanied her husband and the accused to a funeral at Newport. They returned home by Abington but she could not say what time they left Newport. On the journey home the deceased used dirty language towards Mrs. Lynch, wife of the accused. He was referring to a month he had spent in jail. They stopped near Barry's gate and the accused and the deceased got out of the van and began to fight. She helped to make the peace between them, and they all got back into the van and proceeded on their way. The accused seemed to be upset and in a violent temper. They eventually arrived at her house, and the accused went home. She began to prepare the dinner and her husband was sitting near a window. The deceased was also in the house. She saw her brother, Thomas Lynch, come to the window with a gun but he did nothing with it. She went out of the house and shoved the accused back and a shot went off against the window. She got weak at the gable-end of the house when the first shot was fired. She also heard a second shot and then saw the deceased at the step of her kitchen door. He then went into her bedroom, and she persuaded the accused to go home. Outside the window she found cartridge cases, which she handed over to the Guards.

ALL VERY FRIENDLY.

Vincent Egan, publican, of Newport, said the accused, accompanied by the deceased, John Heffernan, and two other men entered his premises and each drank four and a half pints of stout. All were very friendly and when they left the premises they were sober.

Dr. Maurice Hickey, State Pathologist, said he performed a post mortem on the deceased on August 15th. The body was clothed in jacket, trousers, shirt, undervest, shoes and socks. It was the body of a well-developed, muscular man, aged about 35 years, five feet nine and a half inches in height and weighing between eleven and twelve stone. An oval wound one inch long was present in the abdomen. Holes in the jacket and trousers corresponded to the position of the wound. Forty-one pellet shots were present in the skin of the abdomen and a scatter of shot extended up to five inches from the centre of the wound. Much free blood was present. He found a number of pieces of shot in a piece of leather on the body and there was no exit wound. Death was caused as the result of shock and haemorrhage due to a gun wound in the abdomen.

Dr Garret Scanlan (Cappamore) said he went to John Heffernan's cottage on August 14th. He saw the deceased there lying on the floor of a bedroom. He examined him and found that he was sinking rapidly. He was severely wounded in the abdomen and nothing could have been done to help him live.

Timothy O'Reilly, a tractor driver, Castlerkin, said that on Sunday, August 14th he was at Eyon Cross with John Ryan and John Joseph Mulcahy. "I saw the accused going in the direction of his own house," went on witness. "He passed Eyon Cross, driving a van from the Rath direction. It was 3.30 (N.T.). The accused's wife was in the van. Afterwards the deceased and John Heffernan passed on foot and went in the direction of Heffernan's house. Shortly after that I saw the van again driven by Thomas Lynch. He was alone as far as I could see. It came from the direction of his own house and went towards Rath. I again saw the van stopping at the cross and Thomas Lynch said: "Did ye see the boys passing?" meaning Jack Heffernan and Johnny Lynch. John Joe Mulcahy answered him and said they were gone over the road in the direction of Heffernan's house. Thomas Lynch then drove on in the direction of Jack Heffernan's house and he was alone. He was gone a very short time when I heard a shot from the direction of Heffernan's house. I also heard people shouting. I heard a man's voice say: "I'll have your life." Then I heard another shot.

John Ryan, lorry driver and owner, Eyon, said that on Sunday 14th August he was with the last witness at the cross. He thought there was somebody in the front and back of the van when he