

BERNARD FITZPATRICK'S RECORD.

THE SENTENCE OF OFFICER NORTON'S SLAYER NOT LIGHTENED.

District Attorney McKeon, yesterday astonished the younger lawyers practicing at the other side of the bar in the General Sessions Court by the vigor with which he opposed the exercise of any judicial clemency in the case of ex-Police Officer Bernard F. Fitzpatrick, son of Alderman Fitzpatrick, who was tried for the murder of Police Officer Thomas J. Norton, and convicted of the minor offense of manslaughter in the third degree. The District Attorney considered that Fitzpatrick should have been convicted of a higher grade of homicide, and deserved the full penalty—four years in State prison. On ascertaining that an effort was to be made to induce the court to exercise clemency on the ground of good character, he determined to do all in his power to oppose it, and presented evidence of former acts of violence on the part of Fitzpatrick. The prisoner's counsel asked for a postponement of sentence on Monday in order that he might introduce evidence of good character, and at the opening of court yesterday an imposing array of witnesses to testify on that point was in attendance. The court-room was crowded with politicians when Fitzpatrick was called to the bar for sentence. Counsel for the defense called his witnesses to good character, and Judge Gildersleeve had concluded the examination of four or five when District Attorney McKeon entered and seated himself in the Prosecutor's chair. Andrew Martin, a wholesale grocer, was in the act of testifying that he had known Fitzpatrick for a great many years, and only knew of his having been engaged in "a couple of scrapes" before the shooting of Officer Norton. Mr. McKeon asked that the witness be sworn, and that he be allowed to cross-examine him.

Counsel for the defense objected, stating that he had never heard of a case in which the District Attorney had been permitted to examine witnesses as to character after the trial had closed.

Mr. McKeon—You will hear of a good many more strange things before you get through with this case. I demand it as a right to cross-examine these witnesses.

Judge Gildersleeve said he could not deny the right of the District Attorney to cross-examine, and directed that the witness be sworn.

Mr. McKeon—Now, Mr. Martin, I have known you all my life. Do you want this court to understand that the reputation of this young man is that of a good, orderly, peaceable citizen? Isn't he a ruffian, a rowdy, a drinking man, a man who has been in the habit of firing pistols and using knives?

Mr. Martin, (hesitating)—Yes.

District Attorney—That will do. [To counsel for the defense.] Have you any other witnesses?

Counsel—Oh, yes! Twenty or twenty-one.

Mr. McKeon—Then bring them on. I am anxious to see the twenty citizens who will come on this stand and testify that this prisoner is a man of good character. [Sotto voce.] He ought to have been sent to State prison long ago.

Dr. Owen J. Ward, of East Broadway, was next called. He said he had been family physician to the Fitzpatrick family for 15 years, and thought the character of the prisoner was inclined to be bad.

After this astounding evidence on the part of a witness called to prove the prisoner's good character, Judge Gildersleeve said he would hear no further testimony. He did not think, he said, that the case was one in which any leniency should be shown. Addressing the prisoner, he said he did not think he was a bad man, but he had a quick temper, which led him into acts that had given him a general reputation which certainly was not enviable. He did not think he would be doing his duty if he did not impose the full penalty prescribed by law. His Honor sentenced Fitzpatrick to four years in State prison at hard labor. The prisoner was then handcuffed to a court officer, and walked to the Tombs, followed by an immense crowd.

Frank McCormack, one of the men indicted as accessories to the murder, was subsequently discharged by consent of Assistant District Attorney O'Byrne, there being no evidence to warrant his detention. John Kennedy, who is also under indictment as an accessory, is still in the Tombs, and will probably be tried at the next term of the court.