

J. B. Brown

FLORIDA

HW. GORDON'S job at Tilgham's Mill in Palatka, Florida, required that he arise early in the morning and start for work shortly after five o'clock. His regular walk to work led him at about 5.30 through the shop yard of the Florida Southern Railway. As he was passing through the yard on the morning of October 17, 1901, he stumbled upon the body of a dead man. It was still before dawn. He immediately hastened to get the section foreman, J. J. Hunter, and together they returned to examine the body. As day was breaking a large group of railway men gathered around the body, which was identified as that of their fellow workman, Harry E. Wesson. Wesson, an engineer on one of the freight trains, had been shot at close range in the back of the head, and apparently had been instantly killed. His pockets were turned inside out—indicating that the motive for the murder had been robbery. Wesson's money had not been discovered by his murderer, however, for a roll containing \$130 was found hidden under his overalls. A few feet from the body a .38 caliber pistol was found. One shell had been fired. Near by was a woodshed—an ideal hiding place for one intending to waylay another.

Wesson had been the engineer on Conductor F. R. LeBaron's freight train which had arrived in the Palatka yards just before four o'clock in the morning. He had shunted cars around on various tracks in the yard, and at 4.10 had put his engine into the roundhouse. There he met Night Watchman H. B. Scott, and together they went to the foreman's office, where Wesson registered at 4.19. Wesson and Scott left the office together. Shortly after, a report, as of a pistol, was heard about a city block from the office, but nothing was thought of it until the corpse was found. Scott said that he and Wesson separated outside the foreman's office, Wesson starting home with his lunch pail, and he to inspect Locomotive 32 and then to go to the roundhouse. This was the last time Wesson was seen alive. It was over an hour later that his body was found by Gordon.

An autopsy was made by Dr. W. H. Cyrus and Dr. Welch. A .38 caliber revolver bullet was taken from the victim's brain.

There was a great deal of public excitement and indignation in Palatka over the atrocious murder. Sheriff R. C. Howell and his deputy, R. L. Kennerly, lost no time in rounding up a number of suspects and in putting them in the Putnam County jail—among them being Lucius Crawford, the regular yard night watchman, who lived in the yards; Harry Landon, a switchman; and Phil Sterges. At five o'clock in the evening, Jailer Hagan was standing on the jail porch, when he noticed a colored man come up to a crack in the fence and call for the prisoner Crawford, who was in the jail yard. Hagan said that it was J. B. Brown—a former brakeman on one of the Plant System trains—and that he heard Brown say to Crawford, "Keep your mouth shut and say nothing." This was reported to the sheriff, and in less than an hour Brown was arrested. The possible connection of each of these prisoners with the murder was closely investigated.

It was reported that bad feeling existed between Brown and the murdered engineer. Conductor LeBaron said that in Ocklawaha during the August just past, he had censured Brown for the lax way in which he was coupling some cars, and had pulled him from between the cars and slapped him. Brown hit back at LeBaron with a sealing iron, whereupon the latter called for Wesson, who came running from the engine with a pistol which he gave to LeBaron. Brown then ran away, and he never worked again on LeBaron's train. A porter, Edward Ponder, said that sometime in September, Brown told him about this fracas and said that he was going to get his pistol, which was in Hagan's Bar at Palatka, and kill Wesson. It was not denied that on the night prior to the killing, Brown had passed by Hagan's Bar, but it was not clear whether he entered or not.

Brown, under questioning, accounted for his time on the evening of October 16 and the morning of October 17 as follows: He spent the early evening of the sixteenth at the house of Glover, a restaurant keeper, where he was staying.

Later in the evening he went to Nunberg's, where he took part in "a little game" with Glover, Nunberg, and Sanders. The game broke up at about eleven-thirty, and from there he returned to Glover's, passing Hagan's Bar, and went to bed. He slept there all night until "sun-up," when he arose, washed, and went down to "the caboose" and joined in a game of cards with Wilson, Vick, English, Davis, and Johnson. After six o'clock, he went to the store to buy some sugar for Davis, and on his way back learned of Wesson's murder. A short time later, he returned to Glover's, and stayed there the rest of the day until the time of his arrest, helping around in Glover's restaurant.

The officers found a motive for the murder in the trouble between Brown and Wesson, and so investigated him thoroughly. Harry Landon reported that, on October 16, Brown was without money, and tried to borrow a quarter from him. When the loan was refused, Brown was reported to have replied, "Never mind, I'll catch 209 away from here tonight, that's the train going south to meet 208." "Two hundred eight" was Wesson's train. At the card game in the caboose the following morning, after the murder, Brown had a handful of money. Some of the players said that when Brown arrived at the caboose he was all excited, that he took Jim Johnson over to one side, and that they whispered to each other. All these bits of circumstantial evidence against Brown were carefully noted, and he was kept in jail. The other suspects were released.

One day a prisoner, Brown's cell mate, Alonzo Mitchell, called the sheriff, and told him this story: Brown had just confessed to him that he and Jim Johnson plotted to kill Wesson for his money, and they had waylaid him by the woodshack, where Brown had shot him with Johnson's pistol. Brown took Wesson's money, \$4.75, and Johnson took his watch and the pistol. Henry Davis, another cell mate in the prison, corroborated Mitchell's story and said that he had heard Brown confess.

With this testimony in their possession, the officers delayed no longer. State's Attorney Syd L. Carter presented the case to the Putnam County Grand Jury, which returned

a first-degree-murder indictment against Brown and Johnson. Brown was placed on trial before Circuit Judge W. S. Bullock on November 19, 1901. The prosecuting attorney was assisted by B. P. Calhoun. Brown was defended by A. M. Allred and John E. Marshall. The prosecution submitted the testimony establishing the circumstantial evidence against Brown, and the prisoners Mitchell and Davis testified to the confessions. On cross-examination of Mitchell, the defense attorneys endeavored unsuccessfully to show that Mitchell had been placed in jail for the purpose of obtaining a confession from Brown.

Brown testified in his own behalf, going in detail over his alibi. Glover supported Brown's alibi by testifying that Brown slept at his house on the night of October 16, that the only way Brown could leave the house was through his own room, and that Brown did not leave until sun-up. In rebuttal, the sheriff and the deputy sheriff testified that they had talked to Glover when Brown was arrested, and that Glover had then said that he did not know when Brown had left the house, because Brown was gone when he awoke.

In testifying further, Brown denied that he had made to Edward Ponder a threat against Wesson's life and denied owning a pistol. He admitted his quarrel with LeBaron, but denied that he had ever had a cross word with Wesson and that there was any hard feeling between them. He said that on the evening before the murder he had not gone to the roundhouse, but a state's witness in rebuttal testified that he saw him there. As to the money Brown produced at the card game in the caboose after the murder, it was said that Glover gave him a dollar and that Brown had won some money in the game at Nunberg's the night before, and several witnesses corroborated this. The prosecution endeavored to submit in evidence a transcript of testimony taken at the coroner's inquest, in which Brown was reported to have denied that he had any money in the caboose game; upon defense objections, however, the court refused to admit any record of the coroner's evidence, inasmuch as Brown, admittedly, had refused to sign the statement because he said it was incorrect. Thereupon, the reporter at the coroner's

inquest was called, and she testified from memory to certain statements made by Brown at the inquest contrary to his testimony at the trial.

Brown denied that he had gone to the jail fence on October 17 to talk to Crawford. Jailer Hagan claimed to have recognized Brown by the sound of his voice and by seeing his back. As to the confession, Brown absolutely denied ever having made it. He admitted that Mitchell had tried to get him to confess the murder. Other persons who had also been in the prison testified that Mitchell conferred with the authorities at times while he was locked up with Brown and that they had heard Mitchell try to get Brown to confess, but that Brown always said that he was innocent.

The trial lasted two days, and on November 20, 1901, a verdict of guilty was returned. On the following day, Judge Bullock sentenced Brown to be hanged, the defendant's motion for a new trial being overruled. Upon an appeal to the Florida Supreme Court, the conviction and sentence were affirmed.

ARRANGEMENTS were made for the hanging of the convicted Brown upon a specially built gallows. Brown was led to the gallows, and the rope adjusted about his neck. Hanging formalities proceeded, but to the great astonishment of all, when the death warrant was read, it ordered the execution of the foreman of the jury which had found Brown guilty. It is perhaps needless to remark that no one was hanged on that warrant.

Brown's attorneys placed the case before the Governor of Florida, with a plea for a commutation of the sentence to life imprisonment. The plea was granted.

In the spring term of the Circuit Court of Putnam County, 1902, the case against J. J. Johnson, who had been jointly indicted with Brown, was, on the motion of the State's Attorney, nol-prossed.

Life imprisonment, however, was not to be the fate of J. B. Brown. Early in 1913, J. J. Johnson, in a deathbed confession, admitted that he alone had shot Wesson, and

that Brown had had nothing to do with it. Realizing the unreliability of many such confessions, the officials checked carefully all corroborating details and became convinced that Johnson really was the guilty man, and that Brown was innocent.

On October 1, 1913, a full pardon was granted to Brown by Gov. Park Trammell and the Pardon Board upon the recommendation of Judge Bullock and the prosecuting attorney, "in order to rectify, as far as possible, a gross miscarriage of justice. . . . the conviction was obtained upon perjured testimony and in the excitement of the heinousness of the crime and the zeal of private interest."

After serving twelve years for a crime of which he was innocent, Brown was given his liberty, but he was then physically disabled. Sixteen years later, in 1929, when Brown was "aged, infirm, and destitute," he was once again remembered by the state of Florida. In consideration of what was called "faithful service . . . during the period of this wrongful imprisonment," the Legislature appropriated \$2,492 for Brown's relief, to be paid in \$25 monthly instalments. This action was taken at the instance of Representatives W. D. Carn of Marion County and T. C. Douglas of Putnam County. Brown is now (1931) living in Marion County drawing his monthly relief from the state of Florida.

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BROWN was the victim of perjured testimony and circumstantial evidence. The Governor in his pardon admitted that the public excitement at the heinousness of the crime and the zeal for vengeance had a material bearing on the unhappy result. Suggestion doubtless influenced those witnesses who remembered "facts" connecting Brown with the murdered man and with conduct supposedly indicating guilt. The prosecution did come close to the real criminal when they obtained the indictment of Johnson, but instead of seeking to prove his guilt they unfortunately concentrated their misdirected efforts upon Brown. Brown came as close to execution as Purvis (p. 210). The intervention of an improperly

drawn death warrant proved to be equally providential. But for Johnson's deathbed confession, which was amply corroborated, Brown would have spent the rest of his broken life in the penitentiary. As it was, perhaps Florida deserves commendation for recognizing the legitimacy of Brown's claim upon the state for the miscarriage of justice of which he was the sufferer.

BIBLIOGRAPHY

1. *The State v. J. B. Brown*, Putnam County Circuit Court, Fall Term, 1901.
2. *J. B. Brown v. The State*, 44 Fla. 28, 32 So. 107 (1902), and the records in the office of the Clerk, G. T. Whitfield, Supreme Court of Florida, Tallahassee.
3. Pardon of J. B. Brown, State Board of Pardons, Tallahassee, Fla.
4. *1929 General Laws of Florida*, I, 1063-1064.
5. Acknowledgments: Hon. W. S. Bullock, Ocala, Fla.; Hon. T. C. Douglas, Putnam County, Fla.; Hon. W. D. Carn, Ocala, Fla.; Mr. Charles Ausley, Tallahassee, Fla.