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April 1, 1864.—1f.

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Bedford Inquirer.

A LOCAL AND GENERAL NEWSPAPER, DEVOTED TO POLITICS, EDUCATION, LITERATURE AND MORALS.
BURBORROW & LUTZ, Editors and Proprietors. BEDFORD, Pa., FRIDAY, DECEMBER 1, 1865. VOLUME 38; NO. 49.

Bedford Inquirer.

THE CROUSE HOMICIDE CASE.

[CONTINUED.]

Valentine Price, sworn.—Was at the fight on Saturday afternoon; I was sitting before Mengel's door with Mengel Reed and a couple of others I did not know. Crouse came along and called Mengel Reed a Johnny Reb; by that John P. Reed came along; but Mengel had said before "you've been insulting me" and John P. came along and asked "what was the matter," Mengel said "he's been insulting me again, calling me Johnny Reb;" J. P. Reed said that "if there's any fighting to be done I'm here" and stepped in between them; by that Mr. Crouse made at John P. and attempted to strike him, but Mr. Reed knocked of his back and struck him and knocked him back; Reed then turned around and handed some young man his hat; Crouse struck at him a couple of times again when they clinched; Reed threw him against the post. Then Mr. Jacob Reed and McCaulin parted them; I was fifteen feet from the parties when the fight began: Reed went to Mengel's bar room; Crouse remained fifteen or twenty minutes at the post, and he said to some one "by God it's not all over yet," he said he wasn't satisfied with that; Reed went to his father's house; Crouse followed him to the house; I heard nothing said by him; I have known Crouse many years; Crouse talked in an ill manner to Mengel and within about a step of him; I didn't see Mengel Reed try to strike him.

Cross-examined.—Mr. Crouse had passed Reed's house before he met Mengel; he was going South; Mengel was not on the pavement; didn't see John P. until he came to Crouse and Mengel Reed; didn't hear Mengel say "I'll come you." I was sitting right before the entry door.

Jacob Reed, sworn.—I did not see the first of the fight; I saw there was a fight but did not know who it was; I soon found out it was my nephew and Crouse; I took hold of John P. to separate them; John P. had a decided advantage of Crouse; Crouse's head was under John P.'s left arm; John P. was striking Crouse left handed licks; when I took hold of John P. no one had hold of Crouse. After they were parted Crouse was talking; I commenced with him why he could not let those boys alone; I asked him why he insulted them every time he met them; he said his mouth was his own and he'd insult them whenever and wherever he pleased; I said his mouth was a dirty blackguard mouth, that if he got it hurt he should blame no one but himself. When I put my hands on John P. he had his coat on; my impression is Crouse had no coat on; Crouse followed 10 feet in rear of John P.; when John P. went to his house he stopped at the door.

At this point the defendant's attorneys submitted the following propositions to the Court, which was objected to by the Commonwealth: "The counsel for the defendant propose to prove by this witness, and others to be called, that as far back as August, 1864, Jacob Crouse, the deceased, offered the grossest insults to Mengel Reed, the brother of the prisoner; that these insults were continued from the time mentioned, until the Monday before the killing, on various occasions, and in presence of a number of other persons; that the deceased threatened the life of the defendant in October, 1864; that he threatened if ever J. P. Reed came back to Bedford, and he (Crouse) got his eyes on him he would kill him; he would shoot him; that he was an officer and had a right to shoot him. This was made in February, 1865, that on Monday night before the killing Crouse said John P. Reed shall either kill me, or I will kill him; that these threats, menaces and insults were communicated to the defendant before the killing."

"The Commonwealth objects to any evidence of insults to Mengel Reed as no justification for the act of defendant in shooting deceased."

That threats not made by deceased at and about the affray on Saturday, or in the intermediate time, between that and the shooting, are not evidence, as not being part of *re gesta*.

Upon this proposition the Court delivered the following opinion: "Mr. Jacob Reed was produced as a witness on behalf of the defendant, and amongst other things testified 'that he (the witness) expostulated with him (Crouse) and asked why he could not leave those boys alone, and why he insulted them every time he met them. He (Crouse) said his mouth was his own and he would insult them whenever and wherever he pleased.' And the counsel then proposed to follow this with evidence of threats of Crouse to kill John P. and Mengel Reed, if ever they would return to Bedford, and also of threats made to kill them after their return—that these threats were made during the twelve months preceding and up to the killing, and that they were communicated to the defendant's family prior to the killing."

The counsel for the Commonwealth interpose no objection to the evidence as far as it has already been given in, but object to the additional evidence offered.

In this case the killing of Crouse by the defendant is not denied, but it is alleged that he killed him in defence of his own life, or to protect his person from great bodily harm—and it is now proposed to offer proof of threats as far back as twelve months ago, as evidence, outside of the facts and circumstances attending the fatal encounter, tending to show that the accused had reasonable grounds of apprehension that his life was in imminent danger, or that he was likely to suffer great bodily harm from his assailant. In support of this offer the counsel rely on some authorities quoted by Mr. Wharton in his Criminal Law, vol. 1, s. 641. The cases referred to are *Haynes vs. State*, 17 Geo. 465; *Monroe vs. State*, 6 Geo. 85; *Cum. vs. Nelson*, 1 Gray R. 887, and *the People vs. Shorter*, 4 Bart. 460.

But this same author, in his book on the law of Homicide, p. 227, seems to confine the admissibility of such evidence to threats of a recent date, and on the same page, he cites the case of *The People vs. McLeod*, 1 Hill, 377, for a contrary doctrine and in which it is held that the right of resorting to force upon the principle of self-defence, does not arise while the apprehended mischief exists in machinery only; and also the case of *The State vs. Green*, 4 Iredell 409, a North Carolina case, where it is ruled, that a belief that a person designs to take life, will not prevent the killing of him from being murder, unless he is making some attempt to execute his design, or, at least, is in an apparent situation to do so, and thereby induces the party assailed, reasonably to think that he intends to do so immediately.

There is some reason for receiving evidence of recent threats against the life of the accused, so recent that they may be deemed part of the *re gesta*, to be taken in connection with the evidence of the facts and circumstances at the time of the killing, to show that the party had well grounded apprehension of danger to his life, or of great bodily harm; but we think it would have a tendency seriously to diminish the security of human life, to establish a rule as broad and extensive as that embraced in the offer, and particularly where the party menaced has not seen fit to claim the protection of the law against threats of this character. We feel the force of the argument that great latitude should be allowed in *favorum vite*, but on the other hand, our sworn duties will not permit us to overlook the demands of public justice, or to make rules of evidence that may help to weaken the security and protection the law is designed to afford for the life of the citizen.

The rule now insisted upon is by far too important in its character and probable consequences, and is without that support from adjudicated cases, to justify this Court to enjoin it upon the law of evidence for the trial of criminal cases—and especially in cases of homicide. In giving this decision we feel very much gratified, if any injustice should arise from it, that it can be reviewed by a Court of Error.

We therefore reject the evidence of threats except those occurring and made recently before the time of killing.

The counsel of the defendant except to this ruling and pray the Court to seal a bill of exceptions, which is done.

Agnes Gardner, sworn.—I knew Jacob Crouse; saw him on Monday evening before the killing at Blymyer's and he said he would kill Reed or Reed should kill him. It was a little after dark; he was talking to another man; I was going down street home, walking very slow. He spoke in an angry tone.

Cross-examined.—I was going past Blymyer's; was going down street; he was standing where the stores were; I told father next morning about 9 o'clock; he was the first person to whom I told it; he was the only person to whom I told it; I was washing at Mr. Russells the day he was killed; wasn't at home the next day until after dinner; went to do washing the next morning at 6 o'clock; told my father at 9 o'clock at night.

Joseph Anders, sworn.—I knew Jacob Crouse; saw him at the first fight; he followed Mr. Reed to his office, he then went down street to the corner and said that this would not be the last of it; that Reed was a damned rebel and he would have to leave town or he would take his life; he was at Fetterley's corner; he was telling it to my brother George in an ordinary conversation; he was in a bad humor; it wasn't over half an hour after the fight.

Cross-examined.—I live in St. Clair Tp.; started out of town in the evening; told to some of the boys out in our corner same day; don't remember whether I mentioned it the next day; have talked about it repeatedly; Crouse said Reed was a rebel and he would throw it up to him every time he met him; it was about 60 yards from Reed's house.

Thomas Booher, sworn.—I knew Jacob Crouse; saw him after the fight; saw him at Grove's Hotel; asked him who blackened his eye, he said the Johnny rebs hit him; asked what he had done if for; he said that he hadn't done more than usual, called them "Johnny Rebs," and he said he would see them or catch them again; there were a number of soldiers standing by.

Cross-examined.—He said "Johnny rebs," he said "I will see 'em again or catch 'em again;" he had a black eye; I think I told my father first; I understood him to refer to John P. Reed.

J. Frank Cook, sworn.—I knew Jacob Crouse; saw him after the first difficulty on the street; he said he was going to have revenge out of John P. Reed; saw Crouse and a soldier out of the 187th Regiment between the printing office and Palmer's office; to the best of my knowledge he had a cane or club in his hand; he remarked that if he didn't see John P. Reed that night he would see him again. Crouse's manner appeared to be rash; it was the night before the killing; he appeared to be in a passion at the time he said he would have revenge; I told John P. Reed and said he should be on his guard; I told him before the encounter on Tuesday; being that Crouse said he would have revenge out of John P. I told the family.

Cross-examined.—He was talking to a couple of soldiers; I think he told the family the same evening.

Samuel Dicht, sworn.—I knew J. Crouse; saw him in Grove's hotel on Saturday night after the fight; he said some of them laughed that day when he got a black eye from John P. Reed; he said Schell W. Reed had followed that day to kill him, and he thought he would catch him again; he said he could whip all the Reeds from the biggest to the least and didn't want more than fifteen minutes from drinks.

don't remember telling any one until after the shooting.

Re-examined.—It was spoken in the bar room in an ordinary conversation.

Joseph S. Beagle, sworn.—I was in town on Saturday afternoon; saw Crouse after the fight at Grove's hotel; he told a soldier then that their boys up there said they could take their jackets off them, there were eight or ten soldiers present; I stopped at Grove's State vs. Green, 4 Iredell 409, a North Carolina case, where it is ruled, that a belief that a person designs to take life, will not prevent the killing of him from being murder, unless he is making some attempt to execute his design, or, at least, is in an apparent situation to do so, and thereby induces the party assailed, reasonably to think that he intends to do so immediately.

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Cross-examined.—He was talking to a couple of soldiers; I think he told the family the same evening.

alarm of a fight and I ran down stairs into the street without hat or coat; I saw the crowd in the alley by the hydrant; I ran up to the crowd, and saw my brother John have his arm around Crouse's neck and was pounding him; I next saw Mr. Nicodemus take hold of him, with my uncle Jacob and part them; I was one of them who took my brother into the bar room; I went home with him to my father's house; I stopped at the door; my brother was about entering when I heard some one speaking to him; it was J. Crouse who said now just come out and strike me once; my brother John raised his hand and went in without replying anything; he motioned him away; John said in the house after that; I was sitting at the office with my brother John a country gentleman came up, and said that they were going to mob the house that night; the boys said they were not going to give it up so; he remained up about the house all evening; I was there when the soldiers came; two of them stopped; one of them said I heard down here that you said you could whip any Republican in our company; John denied it; the soldier said if he did say it he should come and try; I was sitting at my uncle John Minnich's shop door on Saturday evening and heard a scream, something like "oh my!" I ran down and saw a crowd; my brother John was standing in a stooping position; Crouse coming at him, John struck him and knocked him back; then John disappeared and I didn't see him any more; it was just after dark; there were a few shots fired on Monday in my father's lot; I went into the office and found John, Mengel and father; father said his pistol had been loaded over since he got it, a year or more ago; Mengel said he tried to draw the loads out; father said Mengel and I should go and shoot them out; we went down and Mengel took a pin; he tried one of the loads with a cap but it wouldn't go off; he took the pin and pushed it through the pivot; he then took some powder and put it on the pivot and shot off some four loads into the ground; Schell followed at me on Saturday as I ran down the steps; my brother went into the house after the killing.

Cross-examined.—My brother owns a pistol; there were two pistols in the office, my father's and brother John's; my father's pistol is a five shooter.

S. J. McConlin, sworn.—I am constable of Bedford borough and also deputy Sheriff; I was in the Prothonotary's office on Saturday and was told there was a fight; I went down; the parties were on their feet; the fighting was over; Reed started toward the Mengel house, and Crouse tried to follow him; I took hold of Crouse and told him I wanted no more fighting; he said if I didn't leave him go he would hit me; I told him if he did I would have him in jail in two minutes; Crouse was a heavy man; he was a stout built man; I met him on Monday in front of the Post office, and he asked me why I was not about on Saturday night to quell the riot; I told him that he objected to my interfering on Saturday afternoon and had determined if they wanted to fight they could fight it out; I was present when the soldiers came up; one said he heard that Reed could whip any Republican in the company; Reed denied it, and said he was not a fighting man, but a student; they said they had been told by Crouse or somebody else.

Schell W. Reed, sworn.—I am a son of J. P. Reed and brother of the defendant; I was attacked by Crouse near the telegraph office on Saturday night; I went down to my uncle Jacob's to tell my brother to come home; Crouse jumped upon me and knocked me down; he struck me in the temple; I don't know whether I hollowed or not; I was hurt badly; my face was swollen for a week; I put ice and camphor upon it; I saw Crouse knocked down and supposed that my brother did it; I have never been well, have been sickly all my life; I was dressing and going to the Springs; I heard my brother Joe run, I had no coat on; I saw my brother have Crouse around the neck; I do not know whether I called out kill him or not; I heard the shriek of my mother and went down and told her John was all right; don't know whether Crouse had his coat on or not.

Sarah Bayler, sworn.—We were shopping on Saturday evening. I went to the Postoffice; we met Schell W. Reed; some body caught him by the throat; it was Crouse; he beat him terribly; we heard the blows on his back; Schell said he did nothing; the more he called out the more he beat him; I saw J. P. Reed coming very fast.

Lieut. Adam B. Carn, sworn.—I met Crouse about 2 o'clock in the afternoon of Saturday; he was sitting on a bench in front of Shuck's store; I noticed he had a black eye; I asked him what the trouble was; he told me he had got into a fuss with rebels; he said he was coming down from his house Mengel Reed was standing on the pavement talking with several persons; as he got opposite to him he said how are you reb or Johnny reb, I can't say which and passed on his way down street; he hadn't gone far when Mengel told him to stop that he wanted to cane him; he told him he had no further to go then just there to do it; then he came towards him with his cane drawn; just at that time John P. Reed came between them; Crouse asked him, do you take it up; he answered him with a blow in the face; Crouse said Reed fought him very hard; that he was a better man than he took him to be, and if he would meet again they would take it out, and if Reed whipped him he would drop it and say no more about it.

Hiram Lents, sworn.—I was setting down at Mr. Miller's steps on Saturday night and Schell Reed was coming along on the opposite side of the street; Crouse halted him and began to beat him; he beat him out to the middle of the street; Reed hollowed that he should leave him go that he didn't do anything.

John P. Reed, sworn.—Am father of the defendant; I was in my office at the time of the first fight; I heard a noise and ran out; as soon as I got to the door I saw a crowd near the alley; I walked up; when I got there I recognized my son having Crouse down, who was hugging one of John's legs, John appeared to have him under his control completely; I felt much distressed but didn't want to take any part in parting, for fear I might be charged, with unfair play; my brother Jacob came rushing up and caught hold of John at once; Esq. Nicodemus came up and also caught hold of John and they were both tugging at John and I remarked that was hardly fair, some should catch Crouse, that if Crouse got loose he would strike him; Nicodemus then, I think did take Crouse; Jon. Cessna came up much excited; much vociferating and I stopped him, that he must cease his exciting the parties; after the fight my son went towards the Mengel house; I saw Crouse follow my son towards our door; I heard no conversation; Mr. Beagle came and notified me that I was in danger; that they were exciting the soldiers; I had my pistol prepared; I told my boys to prepare theirs; I had a couple of bayonets; a bowie knife and a couple of bayonets; we had a little fort there, and I presume if they had a come they'd had some trouble; a large number of soldiers, about twenty passed my house in regular order and one large soldier called upon my son and said come here sir; my son went to him; and I went to them; the soldier said he'd heard that John P. had said that he could whip any Republican in the company; my son disclaimed of having said so, that it was false; that he was no fighting man &c.; I felt very indignant and told the soldiers that they were imposed upon; were wrong informed; I had not my coat off on Saturday afternoon at the fight; neither had my son John P.; I told my son that I thought it best to surrender to the authorities; I visited my son daily in jail; I think he was there for two weeks.

Il. Nicodemus, sworn.—I am Justice of the Peace; I saw the closing part of Saturday's fight; I saw two men fighting; I called upon the men to part those men; we succeeded; I think Crouse had his coat off; J. P. Reed had his coat on; I don't know who I saw; I did see Schell; I did not see Mengel.

E. F. Kerr, sworn.—On Saturday afternoon I was at my office; followed behind Crouse when he was following J. P. Reed to his house; I was about 9 feet from the door when Reed went into the house; Crouse said strike me or fight; on Tuesday I heard the report of pistol; I went to the door and looked &c.

W. Suters, sworn.—Crouse told me on Saturday that he had a fight with the Johnny rebs; and says it's not all over yet; all I want at them is another chance says he I think I can fix him.

Cross-examined.—Crouse's face was not bleeding but a little black under the eye.

H. Clay Daugherty, sworn.—I went down to Mr. Reed's door with John P. Reed after the fight; he did not say that he would shoot his heart out of him; I think I could have heard if he had said so.

H. W. Fisher, sworn.—I was at the door when John P. Reed entered his father's house; he did not say that he would blow Crouse through; if he had spoke in an ordinary tone I could have heard him.

John G. Fisher, sworn.—I was in Mr. Palmer's office when Crouse was shot; I went to the door and saw John P. Reed walking toward his father's house; I saw Mengel Reed standing on the edge of the pavement; Mengel was taking no part as far as I could see; he was looking toward John P.; the screams attracted my attention as much as the firing; the scream was after the pistol firing.

Cross-examined.—I was nearly opposite to Reed's house; I was on one side and Mr. Reed's house is on the other; I heard no scream before the pistol was fired.

Wm. O. Hickok, sworn.—I live in Harrisburg; I was here on the 1st of August last; I was staying with my uncle; he lives on Juliana street in the bank building; I first saw Crouse coming down the opposite side of Juliana street; I was sitting on Reamer's steps; Crouse was going North; James Lyon was with me; I next saw Reed coming West; when I first saw him he was stepping upon the crossing; Crouse had been advancing down the street; Reed was still advancing North when he was accosted by Crouse; I didn't hear what he said; Reed was coming with his face to me and he turned with his back to me and faced East; I inferred that Crouse had accosted him; Crouse took off his coat and hung it on the post; all this time Reed was motioning him with his hand repelling him; as soon as Crouse picked up two stones, Reed began to retreat; he picked up the stones at the foot of the post in the gutter; he retreated obliquely across the street toward his father's house; Crouse still continued to follow him; with a position like this (giving position) with a stone, watching Reed; I did not notice the expression of his face; I saw him throw; Reed had reached about the middle of the street when Crouse threw the first stone striking Reed in the left side; as the stone struck him he threw up both hands in this manner; (giving position) he had nothing in his hands when he threw them up; Crouse threw the stones with very great violence; the blow staggered Reed back two or three steps; Crouse still followed Reed to the middle of the street, in the mean while he passed another stone from his left to his right; he had drawn the second stone about this distance back, when Reed, recovering himself fired; when Reed fired, C. was in a throwing position; Crouse fired forward on his knees then on his face; I saw Mengel Reed coming out of the house and running down the street; I didn't see him

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| Half column..... 18.00 25.00 45.00 |
| One column..... 20.00 45.00 80.00 |

draw the pistol; was looking at Crouse; I didn't see the pistol until the instant it was discharged; when Crouse threw the first stone Mengel ran down; Crouse was the only person who threw a stone; I am sure Crouse had a stone in each hand; Reed was retreating not approaching Crouse; the stones were longer than my fist; Reed had his back to me.

Cross-examined.—Reed had his back to me when he warmed off Crouse, and kept his face toward him; Crouse was about 15 feet from the post when he fell; Reed was ten or twelve feet from Crouse when he fell; I could see his mouth more as if speaking to Reed; couldn't hear a word; didn't hear a word pass between them; I saw Smith's carriage there; his horse's heads may have been 8 or 10 feet from Reed when he fired; the horses were facing toward the Springs. In retreating Reed would have passed 15, 20 or 25 feet beyond the horse's heads; I thought the hind end of the carriage was standing on the crossing; I was directly West of the horse's heads; the horses were right in front of me; to see Reed when I first saw him I would look diagonally across the horse's backs; I was sitting when I first saw, but rose up as I expected to see a fight; when I first saw Crouse he was immediately opposite Reed's house; if Crouse had passed he would have passed between Reed and the house; his back or his side was to Crouse until he turned; Reed did not turn until Crouse accosted him; after he accosted Reed he took off his coat; he was walking toward the post taking it off; he commenced taking off his coat after Reed turned; after hanging his coat upon the post he stooped down and picked up the stones; the post stands out side of the tree to protect it; I suppose Crouse was walking in an ordinary manner as if going about usual business; saw nothing in his hands until I saw the stones in them; Crouse was about 6 or 8 feet from Reed when he turned; when the shot was fired he was about 4 or 5 feet from the curb of the opposite side of the street where Crouse first accosted him.

Re-examined.—I was sitting on the lower steps when I first saw them; I then got up and went up on the upper step when they met; I didn't change my position until after it was over; I have a distinct recollection of the events as they occurred; I suppose the whole transpired in one minute.

James Lyon, sworn.—I live in Bedford; I was sitting on Reamer's steps on the first of August with Hickok, the gentleman who has just been examined; Mr. Hickok said to me there goes Crouse with a black eye; I said yes there he goes with a black eye yet; he was coming down from towards Marbourg's office; when I saw him he was between Nicodemus' office and Keagy's; I set there two minutes, perhaps, when Hickok said there they go at it again; I saw Reed crossing first between Oster's and Harris' corner; I then ran to the tree in front of Schaffer's, a few steps from where we were setting; when I got there, Crouse had his coat off; it was hanging on the post; I saw him pick up two stones; Reed was coming this way; he kept his eye on Crouse as near as he could; I saw Crouse follow him up and throw the first stone, hitting him in the left side; Reed threw up his hands and made a very ugly face; Crouse was in the position when Reed shot him that he was when he threw the first stone; I saw nothing in Reed's hands; I saw Crouse fall; I did not see Reed approach him at any time; Crouse followed Reed about 8 or 10 feet before he threw the first stone; Reed kept retreating; Crouse's manner was very violent; his teeth clasped; the stone he hit him with was about this large (giving size); the stone that was thrown was not as large as the one exhibited here the other day but thicker.

Cross-examined.—I never saw the stone after Crouse threw it; I was about ten feet from Crouse; I was still on the west side of the street, 3 or 6 feet from the curb and just outside of the hind wheel of the hack; the wheel that was the furthest into the street; was west of Crouse and north of Reed; Reed's face was as much to me as it was to Crouse; after I saw Reed crossing at Oster's I did not see him until I saw Crouse pick up the stones; Reed and Crouse could see each other until they met.

Re-examined.—Reed was coming along in an ordinary quiet way; there was nothing to hinder me from seeing what I did see.</