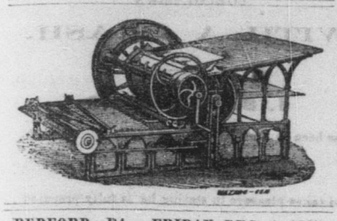
Bedford Inquirer.



BEDFORD, PA., FRIDAY, DEC. 1, 1865.

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CROUSE HOMICIDE CASE.

[CONTINUED FROM THE FIRST PAGE.]

avement and gone on to the crossing, when Crouse went into the gutter; when they met they both looked into the face of each other; Reed went on and Crouse pulled off his coat; Reed kept his back to Crouse until he got about the middle of the street then he went kind of sideways and watching Crouse; his face was directed toward Crouse; the post is north of the crossing; the post is between the tree and the crossing; the gutter is west and north of the post; the post is inside of the curb stone; I stood in the same place until Crouse fell.

J. H. Hutton affirmed.—I live in Bedford; I was standing on my porch on the west side of Juliana street; Mr. Agnew and Harry Hohman were with me; I didn't see the parties until Mr. Agnew said now we will have it; I looked across the street and saw Crouse take off his coat very quickly, as quickly as a man could take it off and throw it on the post, a hitching post; he stooped right down in the gutter and picked up two stones; one in each hand, after I saw him pick up the stones I looked in a southernly direction and saw Reed standing in the middle of the street; I saw Crouse advancing upon him in this way, (giving position); Reed was retreating off in this way (giving position); his countenance was distorted and he looked as if he had been hurt; I then saw Crouse with his hand raised as if he was in the act of throwing; as he raised his hand to throw I heard the report of a pistol; the report of the pistol and the raising of the hand were simultaneous; Crouse appeared to be very much enraged; Mr. Agnew was standing below me to the north; I didn't see any other stone thrown.

Cross-Examined.—From the time I saw Reed in the middle of street to the report of the pistol it was not more than two minutes; Reed was 6 or 8 feet from the heads of the horses; the hind wheels of the carriage were not on the crossing but near to it; Reed was standing near a pile of ashes: Reed was the length of the horses and carriage and 6 or 8 feet from Crouse; Crouse was 4 feet south of the crossing when he fell; Crouse's feet were 8 feet or more from the east side of the crossing and the curb when he fell; Smith's carriage was not more than 2 feet from the west curb; I think it would be 18 or 20 from the post to Crouse's feet; Reed and Crouse were 8, 10 or 12 feet apart when Crouse fell; I can point out the spots where each stood at the time Crouse fell, nearly; Crouse and Reed were moving about alike just Crouse advancing and Reed retreating both walking.

L. B. DeWolf sworn.—I am a sojourner here; was here on the first of August, present year; I was setting in front of the Mengel house between 9 and 10 o'clock on that day; Col. Hodgson was with me; saw Crouse going north on the opposite side of the street; I saw John P. Reed, defendant coming west; he had passed Crouse about 2 or 3 yards; Reed turned around as if accosted by Crouse; Crouse drew off his coat and threw it on the post and picked up two rocks; I saw him throw one and strike Reed on the side; Reed threw up both hands as though he was hurt severely; Crouse changed the other stone from the left to the right hand and advanced; nothing in John P. Reed's hands when he threw them up; Crouse raised his hand to throwing position; I think Crouse and Reed were now 2 or 3 yards apart; Reed now shot; I saw no pistol before that; they were 2 or 3 yards from the post at the time of the shot; Crouse followed about 1½ or 2 yards from the time after the stone was thrown; Crouse followed about a yard before he threw the first stone; I was 50 or 60 yards off all this time; Crouse's manner was violent when he attempted to throw the second time; I never saw the stone; Reed passed directly afterward toward home.

Cross-Examined.—My feet were against the hitching post while sitting at Mengel's; I didn't get up till they fired; my back was east and face west; I turned to the right to look down street; I heard nothing said by the parties; I saw Crouse first nearly opposite the Mengel house; he was under my eye until he met Reed; nothing remarkable in Crouse's manner until he met Reed; Reed was near the middle of the street when I first saw him; I saw Reed when he met Crouse; Crouse and Reed were 3 yards apart when Crouse began to take off his coat.

Col. Hodgson sworn.—I was in Bedford on the first of August; some one pointed Crouse to me, he was passing diagonally across the street towards Palmer's offie and then went down the pavement; I kept my eye upon him; as he got to the corner some other gentleman passed immediately in front of him; Reed was passing the crossing; Crouse stopped and Reed raised his hand in this way beckoning against him; Crouse followed him; Reed still pursued his way; Crouse then drew off his coat, and pitched it on the post; Crouse immediately picked up a stone in each hand from the gutter; as soon as he rose he followed on Reed who was still retreating; Reed then I think left the crossing and was retreating toward his father's house; Crouse then threw a stone very violently; I both saw and heard the stone as it struck Reed; Reed gave evident indications that he was much hurt, and I expected to see him fall; Crouse assumed a crouching attitude and I've been under the impression that Crouse sprang at him; at that moment I heard the report of a pistol; I had not seen a pistol prior to that; Reed, Crouse and I were nearly ona line; I was sitting in front of the Mengel house at the time; my face to the street.

J. A. Marchand affirmed—I live in Greensburg; on the first of August I was in Bedford setting in front of the Mengel house; I saw Reed retreating and Crouse followed him up; retreating from the corner at the post; while Reed was retreating Crouse was taking off his coat; he threw his coat ou the post; Crouse stepped into the gutter and picked up something in each hand, and then drew off at Reed in this manner (giving motion); Reed was motioning with his hand to keep back; Crouse still continued to follow him up when Reed fired; Reed I suppose was 5 or 6 feet from Crouse when Crouse picked up the stones; I can't tell howfar they were off; I saw no stone thrown; Iouldn't tell how far Reed retreated; I thinkto the middle of the street.

Cross-Examined.—I had only been here a few days when the occurrance took place; my chair was leaning against the Mengel house; Reed was walking backwards looking at Crouse; Reed was walking sidewise looking rather over his left shoulder; his right side was toward me; saw him put his coat on the post that was the first I saw.,

Mollie Knee, sworn—I live at John P. Reeds; On the first of April I lived at John Minnich's; Minnich lives nearly opposite the post; I was up at the attick window; was looking out of the window and saw Crouse coming down street by Nicodemus' office and Reed coming up street from Harris' corner. When Reed got up to the corner Crouse had got down to Keagy's office; the moment Crouse spied Reed he jerked his coat off and threw it on the post and stooped down in the gutter and picked up two stones, one in each hand, by that time Reed had got about one third of the way across the crossing; there was a hack coming along which slightly delayed Reed, he stepped off of the cross-walk into the street, he kind of kept his eye on Crouse; Crouse threw the stone he had in his right hand with great violence and hit Reed in the side; Reed sank down and staggered back as though he was badly hurt; Crouse was changing the stone in his left hand to his right and had just throwed up his hand and was in the act of throwing when I saw Reed drawing out his pistol and fire. He did not take aim but made a random shot; He was still retreating as Crouse was following him up; he was about two thirds of the way across the street when he fired; he was about one half across the street when he received the blow; Crouse looked very angry. I didn't hear anything said between them. They were pretty good sized stones. Reed did nothing but fire the pistol.

Cross-examined—Crouse was in a throwing position when he was shot; didn't look particularly where the pistol was; saw him reach into his coat pocket and pull it out; he just drew it out and put it out (giving motion) and fired; did not see the pistol until after it was fired; he had none in his hand until after he was struck; the first I saw of the pistol was when he was firing; Crouse sank down and staggered.

Re-examined—Minnich's house is about a two story. I could see clearly what occurred.

Elizabeth Reighard, sworn—I live at Henry Reamers: was going up to Mr. Reamer's store an the first of August last; was at Mr. Keagy's office; Mr. Reed was going across the street towards his father's house; Crouse was following him; he had a stone in his haud and threw it and hit Reed in the side and Reed threw up his hands as if he had a great pain and as Crouse raised up his hand to throw another stone Reed pulled out his pistol and fired without taking aim; Reed was about one third across the street when he fired; it was better than half way from this; Reed was going back from Crouse; I saw no pistol in Beed's hand until he was hit; after he received that blow he still went back; I was about twelve feet from the parties; Crouse's manner was angry; he was stooping like when Reed shot; he was raising up to throw.

Cross-examined—I went down street behind Mr. Crouse; heard nothing said between them; saw Mr. Reed turn side ways; didn't see Mr. Crouse until he had his coat off; Reed was turned sideways when I first saw him; I walked on while the fight was going on; I saw Mr. Crouse fall; I was standing in Keagy's front door.

Drucilla M. Shaffer sworn—I was up stairs in my mothers room on the first of August last, my mothers house is one door north of Reamer's store I was sitting in the room and I heard something go by I looked out and I saw a spring wagon go down street, saw J. P. Reed step off of the edge of the pavement, I saw Crouse take off his coat and throw it on the post; He went down to the gutter and picked up a stone in each hand I think Reed was nearly two-thirds across the street, Crouse threw one of the stones and hit Reed in the left side; I could not see Reed for the window curtin of the hack; He changed the stone from the left to the right hand and was in the act of throwing when I heard the report of a pistol; I thlnk I was 60 feet from them Crouse seemed very angry he threw very violently; I did'nt hear any thing said between them; I saw Crouse fall on his face, when I next saw Reed he was on his fathers steps.

James Reed sworn—I was at the door on Saturday when my brother entered he did not say that he would blow any body through; I could have heard him if he had saidit, I was walking by my fathers office on the 1st of August I saw Crouse in front of J. Tate's office, I was walking slowly, and he was walking fast, I was looking toward the Mengel House, when I got to the alley Crouse got down to Keagy's office, I saw my brother there about 2 steps upon the cross walk; Crouse was pulling off his coat and walked very fast and threw it on the post; he then reached down and picked up a stone in each hand, my brother turned partly around and motioned him away, my brother walked on looking at Crouse: Crouse followed him to the stone crossing; He drew back his right arm and threw a stone and struck my brother in his left side, he changed the stone from his left hand to his right and was in the act of throwing when my brother, who was walking side-ways drew his pistol and fired; when the stone hit him he threw up his hands and staggared, Crouse's manner was very violent, there was nothing to prevent my seeing them, I did not see my brother approach Crouse at any time, when my brother fired he was right about the ash pile, Crouse continued to follow him.

Mengel Reed sworn—I remember the 1st of August I was sitting in front of father's office door and saw Crouse go down on the opposite side of the street I watched him until he got to the corner when I saw him meet my brother I thought he addressed him, he took off his coat and threw it on the post, my brother turned towards home then Crouse got into the gutter and took up two stones, two rocks, Crouse threw one of the stones and struck my brother; I ran and took a stone with the intention of assisting my brother, I made no use of the stone I intended using it, when I took it, I was about 40 feet off when Crouse fell.

Dr. J. L. Marbourg Re-called—I heard that Reed was injured, I went up to the jail to see him, when I came to the jail Reed was lying on the bed: I removed the clothes to examine the injury; Ifound that he had received a severe blow on the hip bone in front of where it joints to the back-bone; the skin was lacerated showing that it was struck by some sharp body, around that mark there was cut an alin about 2 inches in diameter extending to the spinal culumn: I made the examination 15 or 20 minutes after the affray, I attended him between two and three weeks; The wound itself was not dangerous; If the blow had struck the spinal column higher up it might have produced death or paralysis of the lower extremities, I think the stone exhibited, is not large enough to produce the injury, he was very lame for two or three weeks, I cupped him to alloy the inflamation, If it had not relieved by the treatment it might have pronuced an abscess; I saw the wound a few days ago and there is still a mark there.

Rev. Heckerman, sworn—I know defendant and have known him for fifteen years; his character is all that could be desired.

Cross-examined—Defendant's age is about 24 or 25; he has been part of his time at Lancaster and at Toronto; I think he went to Lancaster in 1859; I think he graduated in 1863; he was there a little over three years; do not know how long he was in Canada; short visits of six weeks were the only periods in which defendant was at home; I made it my business to inquire of the President and Faculty at Lancaster about his character—it was good.

N. H. Skyles, sworn—Knew Jno. P. Reed, defendant, since 1859; know his character, it is good.

Cross-examined—Think he went to college in 1859.

Rev. C. U. Hileman—Belong to Reformed Church; know John P. Reed; was his classmate at college; were together till 1862.

Rev. Hunt, sworn—Knew defendant since 1859; I left in 1860. His character is good.

Judge James Burns, sworn—Knew defendant till he went to college; his character is good.

The Court then charged the Jury as follows:

GENTLEMEN OF THE JURY:

This exceedingly important cause has very nearly reached the point where your deliberations will commence. The duty of attending and listening, with patience and care, to the testimony of the witnesses and the arguments of the learned counsel for and against the defendant, has, as far as our observation can enable us to form an opinion, been faithfully performed; and, we doubt not, that all the facts that have been proved and all the points made in the argument are clearly and distinctly remembered, and that, when you retire to deliberate upon them you will give to each fact and each argument the consideration and attention to which it may be entitled.

The duties of jurors in all cases, and especially in cases involving the dearest interests of life, and even life itself, are always of the deepest importance, as may be implied from the manner in which you have been selected and for the name which the law has given you. You are called jurors, because the duties you are called upon to discharge, are to be performed under the impressive and solemn sanctions of an oath, registered not only in this court of human creation, and therefore fallible and imperfect, but also in the court of Heaven, where Justice has her throne and where all men are judged, and all cases adjudicated according to the principles of unerring truth. While we cannot hope to reach the same exalted perfection that marks the decisions of the Great Tribunal, we are required to approximate, as nearly as is possible for frail humanity. In the light of this great responsibility we approach the performance of the duty devolved upon us, and we believe you will be influenced by the same solemn considerations in the performance of yours.

The defendant in this case stands charged, by the grand inquest of the commonwealth, with the highest crime, save one, that is known to the law—the crime of wilful, deliberate and premeditated murder. Next to the crime of treason, which aims at the life of the nation, the murder of a fellow being is regarded by all laws, human, and divine, as the most atrocious and diabolical. The investigation of a charge of such magnitude and fearful consequences demands at the hands of the court and jury the utmost caution and prudence, and in order that you may fully comprehend its nature, it is made the duty of the court to set plainly before you all the rules of law that have any bearing upon it; which duty, to the best of our ability, we now proceed to discharge.

By the common law, which is part of the law of this state, murder is defined to be "where a man of sound memory and discretion unlawfully kills any reasonable creature in being, in the peace of the commonwealth, with malice, prepense or aforethought either express or implied." The act of 1794, re-enacted in 1860 and made part of the new criminal code, declares that "all murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery or burglary, shall be deemed murder in the first degree, and all other kinds of murder shall be deemed murder in the second degree." The history of criminal jurispru. dence has shown that, even in cases of murder, there is great diversity in the degrees of guilt, and that there should be some distinction in the punishment. Hence this statute dividing murder into two degrees.

The indictment charges the defendant with murder in the first degree. What is necessary to constitute this offence? Besides malice, which must always be found to exist in each degree of murder, there must be, to make murder in the first degree, a specific intent to take life; there must be a wilful, deliberate and premeditated killing. In other words: the slayer must have desired and intended the death of his victim; there must be coolness and deliberation in the purpose, and it must have been premeditated, reflected upon and turned over in the mind beforehand. When death is produced by means of poison, or by lying in wait, the law presumes the intention to take life, the deliberation and premeditation; but when it is caused by others means, the evidence of these elements of the offence must be as clear and forcible as that arising from the use of poison. This question of intent must be determined from all the attending circumstances, the previous threats and declarations of the accused and the character of the weapon employed. To shoot a man through the head with a musket or pistol ball, to stab him in a vital part with a sword or dagger, to cleave his scull with an axe, and the like, are such manifestations of a purpose to take life, as it must be next to impossible to disregard. In respect to the premeditation required by the law, it has been held, that it may be exhibited in a minute before the killing, as well as in a year—but there must be clear evidence of premeditation.

In a case where malice still exists, but the evidence fails to fix on the mind that the killing was wilful, deliberate and premeditated; or where the intent was only to do great bodily harm or other serious mischief; or where death ensues from the commission of some crime, inferior in turpitude to those mentioned in the statute, or of any unlawful act, or from the use of a deadly weapon, such killing will only amount to murder in the second degree.

At this point, it is proper we should direct your atttention to what the law means by the term malice, in its connection with the crime of murder.

The literal meaning of the word malice is wickedness, ill will, a disposition to injure without a cause. But the law assigns to it a more extensive signification, as including, not merely special ill will to the party slain, but a generally wicked, depraved and malignant spirit, springing from a heart regardless of social duty, and fatally bent on mischief. This is malice as defined by the law; and is either express or implied. "Where one person kills another with a sedate, deliberate mind, and formed design, it is said to be express." It may be proved directly, by evidence of the declarations of the party, that he would kill the deceased, have revenge upon him, or the like expressions. It is, however, more frequently established by circumstances, such as antecedent grudges, previous quarrels, concerted schemes to injure the adversary, and by any deliberate and cruel act committed by one person against another. Malice is implied when the facts and circumstances connected with the killing show there was no provocation, and that the act was committed from a depraved inclination to mischief; or it may be inferred from the use of an instrument likely to kill.

Malice, as we have thus described it, is an indispensable element in the crime of murder, whether of the first or second degree; and before you can find the defendant guilty of either grade of murder, the existence of this element must be established. We state this general principle without taking time to present to you all the phases in which it may be found to exhibit itself. From what we have already said, and what has been said during the discussions of the learned counsel, we believe you fully comprehend the nature of malice as we have defined it, and will be able to apply it to the facts.

There is, however, another species of felonious homicide, to which it is our duty now to advert. The law calls it manslaughter, and this is defined to be the unlawful and felonious killing of another without any malice, either express or implied. It differs from murder in not requiring the presence of malice. The common and most readily comprehended illustration of this offence is this: where two men fight upon a sudden quarrel, and one of them kills the other in the heat of blood. Another illustration is, where a man has been greatly provoked by any gross indignity and immediately, in the heat of blood kills the aggressor. But in order to reduce a homicide, produced by a deadly weapon, to the grade of manslaughter, there must have been a reasouable provocation—not a slight or trivial one. When such provocation is shown, the law will then, in merciful indulgence to the frailty of human nature, refuse to class this kind of killing with that which results from cool, deliberation and premeditation.

We have thus, as concisely as possible, set before you these three different grades of homicide, and the rules of law in relation to them as far as we think necessary for the purposes of this case, that you may apply them to the facts detailed in evidence before you, and determine to which class, if to either, the killing in this case belongs; provided you would come to the conclusion that the defence set up has not been sustained. And this brings us to the constderation of the rules of law applicable to the doctrine of self defence.

Self defence is an instinct of our common humanity, and has found expression in the universal and trite maxim that "self preservation is the first law of nature." It is indeed, a sacred right, recognized by the law of the land, and enforced in every civilized state. But when one man kills another on the plea of self defence, he must satisfy the minds of the jury that this was the only resort, or that he had reasonable ground to believe that this was the only means, by which he could preserve his own life, or protect his person from great bodily harm.

It is a well settled rule in England, from which we have drawn the most valuable principles of our law on this subject, as well as of the Courts of this State, and indeed of all christian and civilized States, that before a man can appeal to this extreme measure of protection, he must give way and retreat as far as such retreat can be made with safety, or until he reaches a wall, ditch or other obstruction that renders further retreat impossible. There is but one exception to this great christian rule, and that is, when the assault is so sudden, violent and fierce that the attempt to retreat would only increase the danger of the loss of life, or of great bodily harm. In such case the party assailed may defend himself in his tracks, and only then. If the law allowed any other rule than this, it is easy to see that in many cases the life the citizen must be seriously endangered.

This question of self defence is the great point in this case. The killing of Jacob Crouse with a deadly weapon is not denied. It not only is not denied, but is admitted and justified, on the ground that the assault upon the defendant by the deceased was made with so much suddenness, violence and fierceness, that there was no means of escape, with his life, or without great bodily harm, except by shooting at, and taking the life of his opponent.

The parties met on the corner at Mann's store room, on the morning of the first of August last, neither party having seen the other until they encountered each other face to face. Some words passed between them that no one heard, and the import of which, we are left to conjecture. Had they been heard and communicated to us, much of the mystery that surrounds this part of the case might have been dispelled. The deceased (Crouse) was heard to address the defendant with the words "Mr. Reed," and this is all we know of what was said on that fatal occasion. Crouse was then seen to take off his coat and hang it upon the post, and immediately after to pick up stones, the defendant moving off, and motioning with his hand to the deceased. Just at this point arises a disputed question of fact of very great consequence in the cause. It is this: On the one side it is alleged that the pistol was drawn by the defendant, within the view of the deceased, and before he picked up the stones; and on the other side that the stones were picked up, and one of them thrown against the person of the defendant with great violence, and causing a severe injury, before he drew the pistol.

The witness produced by the commonwealth to this particular point is Mr. Alex. Agnew, who swears that he saw the parties when they met,—that he heard the deceased say "Mr. Reed"—that he saw Crouse pull off his coat and hang it on the post—that he then looked at the defendant and saw the muzzle of a pistol, which he had in his right hand, projecting an inch or an inch and a half past the breast of his coat;—that Crouse then stooped and picked up a stone in each hand. No other witness either for the commonwealth or for the defendant saw this—It does not follow, however, that the statement of Mr. Alex. Agnew is false—much less does it follow that it is willfully false—and the charge ought not to have been made. Whether he was mistaken or not is for the jury to determine—we express no opinion in respect to it.—Hickok, Lyon, Hutton, De wolf, Col. Hudson, and Harry Hohman say they saw the defendant, when he was struck with the stone, lift up both hands and they saw no pistol in either.—None of the witnesses last named saw the pistol until it was fired by defendant and most of them, if we remember aright, only knew of there being a pistol at all by hearing the report and seeing the effect of it upon the deceased. There were three other witnesses, Miss Reigart, Miss Molly Knee and James Reed, a brother of the defendant, saw the pistol, and they say it was produced for the first time when it was fired. This whole transaction transpired within a very brief space of time and it is but natural that different parties would give different versions of it—It is argued that the conduct of Crouse in watching the defendant is evidence that there was some special reason for it, and this is a circumstance that you will consider. We do not propose to discuss these facts—this has been done by the counsel. That the defendant had a pistol is not disputed. When was it drawn by him? This question you must settle—If it was drawn before the stones were picked up by the deceased, and that was his reason for arming himself with them, this fact of itself puts an end to the plea of self defence—But if you come to the conclusion, from the evidence, that the pistol was not drawn before the stones were picked up and one of them thrown against the person of the defendant, there still remains for your decision the great question of self defence. No man is excused, as we have already said, in taking human life in self defence, until he has shown it was absolutely necessary, or that he had reasonable grounds to believe it to be necessary, in order to save his own life or protect himself from great bodily harm. You cannot have forgotten the testimony applicable to this point. We propose the following questions to which you can apply the evidence: Could the defendant have retreated before he was struck with a stone? Could he have retreated afterwards, with safety? Where did he stand when he fired the pistol? How far was he from Crouse? If he could not have retreated without exposing his life to increased danger or his person to greater peril of bodily harm, his plea of self defence would be sustained; if he couldhave so retreated, there is then no excuse for taking the life of Crouse and his defence fails—and it will then become your duty to determine the grade of the defendant's guilt.

If there was a specific intent to take life, and the defendant armed himself with a pistol for the purpose of using it, even in case of a quarrel commenced by the deceased, the offence would be murder in the first degree. If there was no specific intent to take life, but you find that there was malice, as we have already iustructed you, it would be murder in the second degree. But if there was no malice, and the killing was the result of the provocation given by throwing the stone and striking, the defendant, who in the heat of blood and transport of passion fired the pistol, the offence would be manslaughter.

The defendant's counsel have submitted the following points, the answer to which will contain the additional instructions it may be necessary for the court to give to you.

1. That if John P. Reed, without any attack or assault on Jacob Crouse, on the first of August 1865, was assailed by Jacob Crouse, and pursued by him, wounded by him, and was subject by an attempt again to be wounded, or to encounter great bodily harm, and the danger was imminent and immediate, he had the right in self defence to take the life of the assailant.

2. That, if even previous threats had been mutually resorted to, and the parties suddenly met, and the same occurrences took place, just refered to, John P. Reed was entitled to be considered in self defence.

3. That when a party assailed, violently and with a dangerous weapon, without the ability to escape from the impending peril, shall take the life of his assailant, it is homicide in self defence.

4. That even if Reed had commenced the assault, which is not pretended, and afterwards retreated, and was pursued by Crouse, in the manner detailed by the witnesses, he had a right to slay the pursurer in protection of his own life and limbs.

5. That even the assault of Crouse, with these stones, each of which might have proved fatal, and from neither of which Reed had the opportunity to escape, without subjecting himself to the probability of death or enormous bodily harm, he had the right to take the life of his assailant to preserve his own.

6. That in this case, direct injury has been proved, a repeated injury was threatened and Reed was not bound to await the result, in sufferings which he previonsly sustained, which result might probably have proved fatal.

7. That if the jury have any doubt in regard to the act being an act in self defence, they are bound to acquit him. That when the jury disagree, the very disagreement implies doubt, and should lead to an acquittal.

8. In case of reasonable doubt as to the guilt of the accused, evidence of previous good character is conclusive in his favor.

9. And character is always to be taken into the consideration of the jury as a fact, in making up the verdict.

1. To this point we say that if the jury believe that the assault was commenced by the deceased with such suddenness, violence and fierceness, and that it was of such a character as threatened the life of the defendant or great bodily harm to his person, and left him no chance of retreat, or any other means of escape, he would be excused in taking the life of his adversary.

2. In the second point we say the mutual threats indulged in by both parties will not vary the circumstances attending the occurrence on the day of the shooting, or affect the defendant's right of self defence.

Threats made by defendant might have something to do with the use of a deadly weapon, or explanation of the purpose for which he carried it. Threats made by the deceased are entitled to consideration on the defendant's apprehension of danger from the assault of his opponent; still, if he had the opportunity to retreat and did not avail himself of it, he is not excused for killing the deceased.

3 and 5. We answer the third and fifth points by saying that the positions assumed are but a repetition in another form, of the opinions we have already expressed as to the right of self defence.

4. To the fourth point we answer that it is too indefinite to be submitted to the jury as a legal proposition. We have already said that if the pistol was drawn before the stones were picked up and thrown by the deceased, the plea of self defence could not be sustained. Whether the pursuit of the defendant by Crouse afterwards was conducted in a manner that authorized the killing of the latter for the protection of the life of the accused, is a question to be settled by the jury from the evidence, according to the instructions we have already given.

6. If the facts assumed in this point are found by the jury, and they believe, in addition thereto, that the defendant could not otherwise have avoided the threatened mischief, he was not bound to await the second assault.

7. We cannot instruct the jury as desired on this point. Where one man kills another by the use of a deadly weapon, the law infers malice; and in order to extenuate the offence and reduce it to manslaughter, or homicide in self defence, it is incumbent on the accused to prove to the satisfaction of the jury the existence of the extenuating facts and circumstances.

The next proposition in this point has no support that we know of except a theory of Judge Wilson as contained in one of his lectures. He was a very distinguished lawyer but this doctrine of his has never been recognized as sound law by any court in any country.

8. This point we affirm.

9. On the subject referred to in this point we adopt the language of the court of oyer and terminer in the case the commonwealth vs. Kilpatrick (7 Casey 200) and read it as part of our charge.

"The evidence proves the defendant to have borne an excellent reputation. Originally, evidence of good character was not allowed to go to the jury, when there was positive proof of the commission of an offence; for if one was seen to commit a murder with deliberation, although he had borne an irreproachable character, he must yet be guilty. The rule of law in this state, however, permits evidence of good character to be submitted to the jury in every case of homicide, no matter what may be the other testimony in the case. But when a doubt suggests itself to your minds, as to the prisoner's guilt, upon the facts of the case, as presented by the evidence the law casts the whole weight of the prisoner's good character in mercy's scale, and settles the question in favor of the accused.—What then is a doubt? It is not sufficient for the prosecutur to establish a probability, the evidence must establish the truth, not a reasonable certainty; it must convince and direct the understanding, and satisfy the reason and judgment of those who are bound to act consistently upon it. A doubt, such as the law recognizes, is not a figment of the imagination, but something, which, upon a candid and conscientious examination of the evidence in the case, must lead a man of common sense, if he were dealing with the ordinary business of life, and in his own affairs, seriously to pause before coming to a conclusion. If such a doubt exists in this case the prisoner is entitled to the benefit of it."

We have thus endeavored to lay before you the principles of law applicable to this important cause, which, it is your duty to take from the court; and the more especially, as the defendant has the right to except to any decision we may pronounce, and have the same reviewed by the Supreme Court.

We conclude this charge with a single word of admonition. It is not to be concealed that the fatal affair we are now investigating, has, in some measure, grown out of the great rebellion that so recently threatened the subversion of the government. Differences of opinion have divided men and arrayed them on opposite sides of the controversy, and few, if any, have been exempt from the excitements of the day; and we risk but little in saying that the influences of these excitements are still operating on the minds of partisans. As far as it has been in our power we have striven to rise above any sentiments and sympathies of our own, and we, therefore, take leave to impress upon your minds the duty of laying aside any feelings or prejudices that you may possibly entertain, and giving to this case the most calm and impartial consideration. In this sacred temple of law, as one of the distinguished counsel of the defendant has styled it, the scales of Justice should be held in even balance, and the ministers at her altar must perform their duties in a manner that will secure to them, in all the future the approval of conscience.

The case is with you.

The Jury then retired to their room and after an absence of about an hour and a half returned with a verdict of—NOT GUILTY.

THE JURY COMMISSIONERS.—The gentlemen elected at the October election to the position of Jury Commissioners for this County met last week and determined upon the 18th of December, proximo, as the time to draw the Jury for the February term. From henceforth thanks be to the Legislature of Pennsylvania, we will have jurors that will not consist solely of the most rabid and bigoted Copperheads in the County. We will have no more such jurors as were summoned for the Reed-Crouse case—fifty-two Copperheads and eight Republicans. That day, thank heaven, has gone by, no more Copperhead justice for us, we have had quite enough of it, an experience of ten years is quite sufficient. In Mr. William Kirk we have an excellent Commissioner one whose honesty is above reproach and who will see that the jury box will not be tampered with in the future.

BOUNTY TAX.—We have heard great complaint on the part of the soldiers in regard to the payment of this tax. We would call the attention of persons interested to the following provission in sec. 4, of the act "Relating to the payment of Bounties to volunteers" approved 25th day of March, A. D. 1864:

"*Provided*, That the property of non-commissioned of officers and privates, in actual service in the United States army and navy from this commonwealth or who died, or were permantly disabled in such service or having been in such service for the term of one year and six months, were honorably discharged therefrom and the property of widows minor children and widowed mothers of non-commissioned officers and privates who died in such service shall be exempted from any taxation under the provisions of this act."

THE ELECTION OF PATRICK DONAHOE CONTESTED.—At the late Session of the Court of Quarter Sessions of Bedford county a petition was offered to the court setting fourth that Patrick Donahoe was elected to the County Surveyorship by illegal votes and asking the Court to appoint the time for hearing the case. The Court appointed the 26th day of February next. Mr. Sams is the contestant and we feel satisfied will make a clear case. If he should be successful and we feel pretty confident that he will be, a contest will be commenced against all the persons declared elected over their Republican opponents at the late election in this county. The Copperheads have had their day of fraud and rascality henceforth we shall see that they come strictly within the provisions of the law.

☞ The jokes related by our friend Major Williamson of Huntingdon at the Republican meeting on Tuesday night of Court week were not appreciated by our sore friend of the *Gazette*, judging from his sarcastic notice of the Major's speech. Our cotemporary being afflicted with a *sore* head he is only verifying the maxim "as cross as a bear with a sore head." The *Copperheads* are now surely all SORE-*heads*, and none more so than the editor of the *Gazette*. We expect the Major to have a special joke on hand for this morose gentleman on the occasion of his next visit.

☞ The late change of schedule on the Broad Top Railroad is calculated to prove very annoying to the citizens of Morrison's Cove. All mail matter mailed at this place for any place enroute No. 2569 after twelve o'clock M. on Thursday cannot possibly reach its destination until the afternoon of the Monday following. This accounts for the non-arrival of our papers. They are mailed here on Thursday evening and the train on the Broad Top road does not go down in time to make the connection at Hopewelll and all the papers lie over until the next mail which does not go up again until Monday. We hope, however, to have a daily mail on that route ere long. Let the day be hastened, the people have endured the inconveniences of a tri-weekly mail quite long enough.

THE Sacrament of the Lord's Supper, (D. V.) will be administered in the Presbyterian Church on next Sabbath. The Rev. D. H. Barron, of Hollidaysburg, Pa., will assist the pastor.

FESTIVAL OF THE BENEFIT OF THE CEMETARY ASSOCIATION.—A meeting of ladies and gentlemen, interested in the proposed festival will be held at the Court House, on next Monday evening 4th December, at 6½ o'clock—a full attendence is requested.

CHRISTMAS IS COMING.—If you wish to delight your friend with a Christmas Present or New Year's Gift send him a copy of the "Photograph Family Record." There is no better way.

ARTHUR'S HOME MAGAZINE FOR DECEMBER greets us properly at the opening of the month.

One year ago the publishers promised an increase of size and many improvements in the Home Magazine, and they have kept their word.

Steadily, in competition with other periodicals, long favorites with the people, the Home Magazine has year after year put forth its claims to favor, asking acceptance only on the ground of merit, and year after year it has widened its circulation and deepened its hold on the popular heart, until it has become established on a broad and sure foundation; not as a fashion magazine—not as appealing to light and superficial tastes, but as a cheerful friend and thoughtful counsellor to young and old. Month after month, the editors have filled, its pages with things pleasant and profitable, and made its visits welcome for the truth and beauty and human sympathy it bore into the thousands of homes it was destined to enter. The Home Magazine is not simply a literary per[illegible]. It takes higher ground and se[illegible] literature the handmaid of [illegible] to make religion, always teachir[illegible] morality and religion, whether by means of story, poem, [illegible] or essay, that only by the "Golden Rul[illegible]" can man live to any wise or good pur[illegible]ose. If you open your door to its visit[illegible], it will be a true friend in your house-hold. You will find it neither didactic nor heavy, but cheerful, animated, and social—a friend, dropping in upon quiet hours, with something always pleasant and profitable to say.

The terms are $2,50 a year 3 copies for $6. Five copies and one to getter up of club, $10. Address T. S. Arthur & Co., 323 Walnut St., Philadelphia.