The Columbian.

BLOOMSBURG, PA.

Friday, Dec. 17, 1875.

GRANT'S MESSAGE.

We give our readers this week the message of the President, omitting only some routine matters, which are not of general interest. It is a weak, diffusive article, lacking force and clearness. The living, vital issues of the present are ignored, and a vain attempt made to create clap-trap and sensational points for his party in 1876.

Our progress during the past century is alluded to, and whilst in the main true, the present condition of the country is not only deplorable, but directly attributable to Radical legislation and rule.

The school question is simply an echo of his Des Moines speech, and an attempt to arouse the bigotry latent in the land. In a word he would have the government interfere in a question which has no real existence, and which never should come before the national Government.

His idea of taxing church property is a mere catch cry. It is a question belonging exclusively to the States themselves, and one with which the Supreme Court has said the Federal Government cannot interfere. In Pennsylvania, for example, our Constitution and laws meet this question fairly, and no change is demanded by the people.

The Spanish and Cuban questions are met in a conciliatory manner, but our naval preparations continue.

His homily on the financial question is muddled—contrary alike to his former declarations and the acts of his party and the opinions of its leaders. In fact he says that: "I am not prepared to say that I can suggest the best legislation to securethe end."

The message further recommends the reimposition of the tax on tea and coffee. This was taken off for political effect, but now since the election is over it is to be reenacted.

These are the principal points alluded to but our readers should examine the document for themselves. We shall allude to specific points hereafter.

GRANT—CHURCH.

Grant and his 100,000 office-holders are gradually closing in the lines, and the third-term programme, assumes proportions that alarm the staidest Republicans. And now we see some bigots engaging in a religious crusade to help on the movement. The following is among our telegraphic dispatches:

THE M. E. CHURCH TO THE FRONT.

At a meeting of the Methodist Episcopal Sabbath School Union, Tract Society, and Preachers' Association, held on Monday in Boston, nearly 200 ministers being present, Bishop Haven urged, "as a matter of safety for the Republic" that General Grant be nominated for the third term. The bishop's recommendation was adopted by a unanimous vote.

Bishop Simpson while disapproving of any politics inside of church affairs says his personal opinion is that the people will do wisely by electing Grant for a third term.

This is only a starter. Other fools will fall into line, and in 1876, the Republican party will have orators and presses through the land pretending alarm at the ascendancy of the Catholics. Ministers who cannot hold their congregations because of their own short-comings will join in the cry. Zealots whose principles dare not stand fair and full investigation will swell it.

A once proud party that believed in the Constitutional doctrine that "*Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof,*" propose to raise the question of Protestantism versus Catholicism.

And Grant is to be the leader of these holy ones, aided by the pious Ben. Butler, "Boss" Sheppard, Babcock, (if not in the Penitentiary), Mosby, and men of that class! Yes, Grant the Debauchee—the jockey—the Long Branch Grant—the intimate of thieves, rings and scoundrels.

"*Angels and ministers of grace defend us.*"

A Haven of Unrest.

Bishop Gilbert Haven, of the Methodist Church South, has done a very indiscreet and very indefensible thing. He has demonstrated most emphatically that he understands neither the political nor religious proprieties of his relations, and in the dramatic attempt at a sensational nomination for the Presidency has damaged, according to his best ability, himself, his candidate, and his Church.

With singular maladroitness, at the very moment that the President is sending to Congress a grave and well-digested message warning the country of the dangers which threaten it from ecclesiastical ambition and aggression, Bishop Haven, himself an ecclesiastic, and one of vast power and influence, if his Church organization amounts to anything, in a religious convention called together professedly for religious purposes, was engaged in making a political nomination to the first office in the nation.

Had Cardinal McCloskey in an episcopal convention of his Church nominated John Kelly or Governor Carroll for the Presidency the uproar all over the land would have been tremendous. That an outcry from East to West is not heard over Bishop Haven's politico-religious venture is simply because his action does not carry the weight that Mr McCloskey's would have done, and is not, therefore, felt to be practically as dangerous. Its impropriety and indecorousness, however, we have no doubt will be rebuked by nearly every respectable journal in the country. What the people most unmistakably will resent and punish promptly, and in every section, is ecclesiastical interference with our politics, be the hierarch Roman Catholic, Buddhist, Methodist, Pagan, Presbyterian, or Mormon.—*Press.*

VICE PRESIDENT WILSON'S BIRTH.—We stated that the Vice President was born in a gipsy camp. This statement having been denied, we take occasion to reiterate it. It is literally true. There were in Strafford county, N. H., early in the century, two wandering tribes of roving vagabonds, who dwelt in huts and tents and traveled from place to place, picking up a scanty subsistence by making and selling baskets and eking out their uncertain livelihood by fortune telling, tinkering, etc. To one of these tribes the Colbaths belonged, and in their hut the departed statesman of New England was born. —*Utica Observer.*

GOOD.

A Democratic House of Representatives has declared against all subsidies or grants to railroad companies. They have followed the platform of 1872, and deserve the commendation of every honest voter.

THE CENTENNIAL ORATOR.—The Centennial Committee on the Opening Ceremonies have selected Wm. M. Evarts for orator, W. H. Longfellow, poet, and a grandson of Richard H. Lee, of Virginia, reader of the Declaration of Independence.

(Communicated.)

EDITORS OF THE COLUMBIAN:—Please allow me a small space in your Columbian for a Centennial subject.

It is proposed to erect in the Centennial grounds at Philadelphia a statue of the Rt. Rev. William White, D. D. the framer of the constitution of the American Episcopal Church; the first Bishop of the Diocese of Pennsylvania; the first chaplain of the Congress of the United States; the first President and first signer of the constitution of the Society for promoting Sunday Schools in Philadelphia, being associated with Dr. Rush in the work as early as 1790—and the friend and pastor of the first President of the United States. Bishop White was born in 1747 in the city of Philadelphia and died there in 1836. On the 4th of July 1784 he took his degree of D. D. from the University of Pennsylvania, being the first person named for that degree by that institution. As Washington was first amongst his countrymen, as a Commander, a Patriot, and a Man—and Marshall as an impartial and upright Judge, so was White as a teacher of the Gospel and head of his Church.

This is the eminent Prelate and distinguished Patriot whose services and character justly demand that a monument to his memory should be erected. And as he belonged especially to Pennsylvania, it would be most becoming that Pennsylvanians, and particularly the Episcopalians of Pennsylvania should contribute to the erection of that monument. If there are any in this county of Columbia who feel disposed to aid this project, I may say that Mr. John Welsh, the Chairman of the Finance Committee of the Centennial Board, has been named as the proper person to receive contributions.

Very Respectfully, J. H.

BLOOMSBURG, PA., Dec. 10th 1875.

I also invite your attention to the necessity of regulating by law the status of American women who may marry foreigners, and of defining more fully that of children born in a foreign country of American parents who may reside abroad, and also of some further provision regulating or giving legal effect to marriages of American citizens controlled in foreign countries.—*Grant's Message.*

Why? Because his daughter married an Englishman. That is the milk in the above cocoanut.

The Apache Indians are acting upon Grant's motto: "Let no guilty man escape." They killed and scalped an Indian agent a few days ago.

News Items.

—A man in southeastern Wisconsin has thirty acres of swamp reserved for bull frog cultivation.

—The British Parliament has been summoned to meet on the 8th of February for the transaction of "urgent and important business."

—S. Gross Fry, of Philadelphia, is in a dying condition.

—President Grant's message is the longest ever written for him.

—Theodore Thomas has been selected as musical director of the centennial.

—The Reading *Eagle*, says that G. W. Childs will be urged as a Presidential candidate next year.

—The Babcock court of inquiry has decided to await the result of the trial at St. Louis before taking any action in regard to the charges affecting the accused.

—The Philadelphia jury, trying William W. Brown for the murder of his wife, after an hour's deliberation, returned a verdict of murder in the second degree.

—A Leopard brought by vessel to Philadelphia for the Zoological Gardens, got loose, and made a lively time of it on the ship for several days. They succeeded finally in capturing him in a trap baited with raw meat, and his leopardship was safely landed.

—President Grant should have sufficient sense of propriety to put a better man in Schenck's shoes at once. A longer delay will be an insult to both England and America.—*St. Louis Republican.*

—The North German Lloyds' steamer Deutschland, from Bremen for New York with emigrants, went ashore in a gale near Harwich, on the eastern coast of England, on Monday morning and was wrecked. About fifty of the crew and passengers were lost.

—Edward Kennedy, the tramp who recently attempted an outrage on a little four-year-old girl in Hanover, was before the court yesterday, and plead guilty to the second and third counts of the indictment. He was sentenced to pay a fine of $200 and costs, and to an imprisonment of seven years in the penitentiary.—*Gazette.*

—When money collected by an attorney has been held and not paid over within a reasonable time, he may be held liable for interest thereon as well as for the payment of the amount.—The Illinois Supreme Court so decides.

—John Leigh, of Wisconsin, will never do so anymore. At the last election he voted for his opponent for member of the legislature, and that vote did the business, his competitor being chosen by one majority.

—The Secretary of the Treasury has appointed A. E. Wilson of Louisville to be chief Clerk of the Treasury Department to fill the vacancy created by the resignation of Avery.

Lancaster, Dec. 15.—Yesterday Lecturer Piollet delivered the annual lecture, giving an account of his labors during the year, followed by the report of Secretary Thomas. The proceedings today have been entirely of a business nature, and were attended by about 600 delegates. The report of the business agent shows that on purchases made by him in the last seven months amounting to $130,000 for members of the order, $27,000 have been saved. The number of grangers in Pennsylvania is now 30,000, belonging to 630 granges.

The Week of Prayer—Schedule of Topics for Exhortation.

The British branch of the Evangelical alliance has issued a schedule of topics suitable for exhortation and intercession on the successive days of the meetings during the first week in 1876:

Sunday, January 2.—Sermons—The love of God perfected in him who "keepeth his word."—I John ii:5.

Monday, January 3.—Thanksgiving and Confession.—A retrospect of the year.

Tuesday, January 4.—Prayer for the Church of Christ—for the members recently added to the church; for the union of true believers in fraternal fellowship and active co-operation; for the removal of error, the increase of godliness and a clear testimony among believers to the doctrines and power of the gospel of the grace of God.

Wednesday, January 5.—Prayer for families—Godless parents; for prodigal sons; for children at school for those entering upon professional and commercial life; for widows and orphans; for sons and daughters in foreign lands and for all who are mentally or otherwise afflicted.

Thursday, January 6.—Prayer for Rulers, Magistrates and Statesmen—for soldiers and sailors; for national institutions; for philanthropic and charitable societies; for prisoners and captives and for the persecuted and oppressed.

Friday, January 7.—Prayer for Foreign Missions.—Matthew xxviii:19.

Saturday, January 8.—Prayer for all nations—for the maintenance of peace; for the cessation of tumults, wars and civil strife; for the removal of intemperance, immorality and infidelity from the land; that the fruits of the earth may be brought forth plentifully in their season.

Sunday, January 9.—Sermons—The ultimate triumph.—Psalms xxii:17.

THE BOGART HOMICIDE.

CHARGE OF THE COURT.

GENTLEMEN OF THE JURY:—This painfully interesting case which for the last few days has occupied your time and attention, is drawing to a close. The duties of the counsel have been fully and ably performed, that of the court so far as the issue is concerned will end when we shall have instructed you in the principles of law applicable to the case.

We have observed with great satisfaction the close attention which you have given to the evidence and the arguments of counsel. We also commend the patience with which you have submitted to the requirements of the law in being, during the whole progress of the trial, isolated from the rest of the public. While you no doubt rejoice that the restraint is about to terminate, you cannot but feel more and more sensibly the weight of responsibility resting upon you, as the time for announcing your conclusion, the result of the trial, approaches.

The magnitude of the offence with which the prisoner at the bar is charged, demands a full conscientious and careful consideration of the law, at the hands of the court, and an impartial, unbiased and scrutinizing examination of the facts by the jury. The court is responsible for the law, but to you is confided the high trust of solving the questions of fact. In the discharge of the duty, involving issues of life or death, prison or liberty to the defendant, the magnitude of the charge should have no other influence upon your minds than to make you cautious, deliberate and just in weighing the evidence, and clear and satisfied in the judgment you form upon it. You will constantly also bear in mind your duty to society, and will not fail to remember the justice and the impartial consideration which both the commonwealth and the prisoner have a right to expect at your hands

The majesty of the law which protects and defends the sanctity of human life, must be maintained, regardless of consequences. The balance must be held with a firm and steady hand, while the mind intent only on truth and justice, should be alike oblivious to sympathy and to vengeance.

The law gives to the accused the presumption of innocence. Evidence to convict must overcome this presumption and exclude every reasonable doubt of guilt. Looking at all the facts, the jury will determine whether an offense has been committed by the accused, and if so of what nature and grade.

This indictment charges the prisoner with the murder of William A. Kline on the 7th day of September last. Under this indictment it is competent for the jury to find a verdict of guilty of murder in the first degree—of murder in the second degree or of voluntary manslaughter.

It is not denied that the prisoner at the time stated inflicted a wound upon the person of the deceased. But you will take nothing for granted, but will require that every essential fact be established by evidence that satisfies the reason and convinces the judgment.

The case supposed by the Commonwealth and claimed to be supported by the testimony of witnesses is, that in the early part of the morning of September 7th, the deceased was upon the porch of his house, some fifty feet from the store of the prisoner, the prisoner applied to him opprobious *epithets*, hailing him across the street—that the deceased with a cane in his hand, in a hurried and excited manner, crossed the street and went upon the porch of the store of the prisoner—that as he went upon the porch, the prisoner went into the store and shut the door—that deceased called to him to come out and they would settle the matter—that deceased turned to leave—that the door was then opened by the prisoner who at the same time made some remark—calling him a thief, and that as the deceased at that moment turned his head in the direction of the store door, the prisoner stabbed him with a pitch fork over the left eye—breaking through the orbital bone, or part of the skull below or about the arch over the left eye—that the instrument penetrated both the outer and inner tables of the skull and into the brain, causing him to fall, producing immediate unconsciousness during the time he lived and his death on the 18th day afterwards.

Whether this is a correct conclusion from the facts established by the testimony, the jury will determine.

I shall not repeat the evidence upon the subject of the encounter in detail. The counsel upon both sides have called your attention to the testimony of Peter A. Kline, John Black, Isaac A. Black, Milton Betz, Lewis Hildebrand, and Susan Kline, all of whom swear to seeing the whole or part of the transaction.

On the part of the prisoner it is contended that the testimony of Peter A. Kline is contradicted by the fact, as now alleged to be proved, that he could not have seen the occurrence from the window where he was at the time, and that his testimony here varies from that on the hearing of the Habeas Corpus. If it be so that he could not possibly have seen the transaction, his testimony is not reliable. But before coming to that conclusion the jury should be well satisfied that the examinations by the other witnesses unmistakably prove that he could not have seen what he has sworn he did see.

Evidence of what a witness has before said or sworn to may be given for the purpose of impeaching the witness—and if it appear that a witness has given out of court a version of matters essentially different from his testimony in Court, his credit is shaken and his testimony should be scrutinized with great care, and if disbelieved, or considered unreliable, rejected But such evidence of statements are only receivable to impeach the testimony of the witness, not as proof of the facts as stated out of Court. If Lewis Hildebrand made the statement to Mr. Rutan as testified by the latter, but denied by the former this would go to the credit of Mr. Hildebrand, but would not be evidence of the facts as stated to Mr. Rutan. If witnesses swear on different occasions *wilfully* different to material points their testimony should be considered unreliable. If *mistakenly* it should be examined with care, all the circumstances being considered.

If the jury are satisfied that the prisoner inflicted the blow upon the deceased causing the wound as alleged by the Commonwealth and testified by the witnesses, the first inquiry is whether that blow and wound were the causes of his death.

On the subject of the fatal character of the wound, there appears to be no essential difference in the opinion of the surgeons. Dr. Harder, Dr. Ammerman and Dr. Megargel saw the deceased while alive, and made a *post mortem* examination of his head, and unquantifiedly give it as their opinion that the wound caused his death. Doctors Turner and Reber, examined on behalf of the prisoner give it as their opinion that the wound was mortal unless the life of the patient could have been saved by a skilful operation called trepanning. In regard to the proper treatment of the case the doctors disagree. (Here his honor called the attention of the jury briefly to the evidence upon that subject and proceeded.)

The rule of law is that if a man give another a stroke not in itself so mortal as to cause immediate death, yet if the party die of the wound within a year and a day it is murder or other species of homicide as the case may be; though the wound be not mortal and it is made clearly and certainly to appear that the death of the party was caused by the ill applications by himself or those about him of bad medical or surgical treatment and not by the wound or hurt, it seems according to the authorities that this is no species of homicide. But if the death be truly owing to the wound, it signifies not, that under more favorable circumstances and with more skilful treatment the fatal result might have been averted. For example if an assault be made which opens an artery, it will be no defence to plead that by the assistance of a surgeon the wound might have been staunched and life preserved.

Whether the wound inflicted by the prisoner was a mortal wound you will determine from the evidence—taking into consideration its immediate effect upon the physical and mental powers of the deceased—his situation thereafter down to the day of his death—the facts testified by those who were with him from the time of the wound until he died, and the testimony of the surgeons who attended upon or visited him while he lived and made a *post mortem* examination; as well as that of the surgeons who have testified as experts. If the wound was necessarily mortal, inquiry as to the fact of killing need go no further. If it was not mortal, but suppuration of the brain was caused thereby, for the want of healthful applications, or from neglect, and the suppuration was the immediate cause of the death, yet it was murder, manslaughter or other homicide in the prisoner, because though the wound was not the immediate cause of the death, yet it was the mediate cause, and the suppuration or other disease of the brain the immediate cause, the wound was the cause of the suppuration and therefore the cause of his death.

The true distinction in all such cases is, that if the death was evidently occasioned by grossly erroneous medical treatment, the original author will not be answerable, but if it was occasioned from want of the highest medical skill, which could only be commanded at a distance, he who inflicted the wound is responsible, because he has wilfully exposed the deceased to a risk from which he has no practical means of escape.

Is there reason to doubt in this case that the deceased came to his death by reason of the wound inflicted on the morning of the 7th of September? A man, apparently in good health, while standing up is stabbed with a pitch fork, a tine of which is thrust through the outer and inner tables of the skull in the arch of the left eye—he at once falls to the ground, deprived of consciousness, paralyzed upon one side and is thereafter powerless and speechless, or almost wholly so to the day of his death, which occurs 18 days afterwards. He received mediate treatment at the hands of his family physician aided by the advice of other surgeons, but continued to fail until he died. If you are not satisfied that the blow inflicted by the prisoner was the mediate or immediate cause of the death of the deceased whatever you may think of the attack you ought to acquit absolutely.

The credibility of witnesses, their means of knowledge and every circumstance bearing upon the guilt or innocence of the prisoner are matters wholly for the consideration of the jury. Before convicting of the capital or any lower grade of offence, every fact essential to constitute such offense must first be found under the evidence beyond a reasonable doubt.

Homicide is the killing of a human being. It is justifiable as in case of life taken under sentence of the law. It is excusable in case of self defence, and it is felonious, as in case of murder and voluntary manslaughter.

Murder is where a person of sound mind and discretion unlawfully kills a reasonable creature in being in the peace of the Commonwealth with malice aforethought, express or implied.

Malice is an essential element in the crime of murder. When the killing is of a sedate mind and formed design, the malice is express. Malice is presumed when the act is deliberately committed with a deadly weapon and is likely to be attended with dangerous consequences. In the legal sense, malice means that bad mind or spirit which impels one to inflict injury upon another without cause or sufficient provocation, and is implied by law from any deliberate and cruel act committed by one person against another.

A statute of this State, to which we will presently call your attention, establishes a division of the crime of murder into grades, and mitigates the punishment according to the heinousness of the circumstances or facts of the case. If the evidence establishes murder as I have defined it, then the act of assembly comes in and fixes the grade.

Voluntary manslaughter is the unlawful killing of another without malice on a sudden quarrel or in heat of passion. To extenuate or reduce a homicide from murder to manslaughter, both passion and provocation must exist Provocation without passion or passion without provocation will not suffice to extenuate the offence.

Whenever the killing is clearly shown by the prosecution, the circumstances of excuse or extenuation must be established by the prisoner unless they are shown by the evidence adduced against him.

Words of reproach, how grevious soever, are not sufficient to free the party killing from the guilt of murder; nor are provoking actions or gestures, expressions of contempt or reproach without an assault on the person. But assault upon the person or blows are deemed sufficient to excite the passions to such extent as to deprive the mind for the moment of the power to deliberate.

Neither is a bare trespass against the property of another, nor his dwelling house, sufficient provocation to warrant the owner in using a deadly weapon in its defence; if he do and with it kill the trespasser, it will be murder, even though the killing were actually necessary to prevent the trespass. The invasion of property cannot lawfully be defended by the extreme measure of taking the life of the invader. The law regards a human life as of more value than any amount of property.

In defence of the person a homicide may be excusable. The rule upon that subject is well settled. It is this, that in order to such excuse, the killing of one who is the assailant must be under a reasonable apprehension of loss of life or of great bodily harm, and the danger must be so imminent at the moment of the assault as to present no alternative of escaping its consequences but by resistance. Then the killing may be excusable even if it turn out afterwards that there was not actual danger. The law of self-defense is a law of necessity, and that necessity must be real, or bear all the semblance of reality, and appear to admit of no other alternative before taking life will be excusable. In all cases where this defence is set up, the evidence should be examined with care, in order to see that it rests, where alone it can rest, on the ground of real or apparent necessity. The act of the slayer must, therefore, be such only as is necessary to protect his person from death or great bodily harm, and must not be entirely disproportioned to assault made upon him

Does the evidence in this case prove any such necessity as the law requires to excuse a homicide? To exonerate the prisoner from blame in respect to the killing? If not, were there such extenuating circumstances, of provocation and passion, or reduce the grade of the offence below the crime of murder to manslaughter?

(Here the court referred the jury to the evidence on these points.)

If it be found that the wound inflicted or the fall occasioned by its infliction was the cause of the death the question arises whether the act of the prisoner was excusable in self defence.

Had the prisoner any reasonable grounds to apprehend that his own life was in danger or that great bodily harm would befall him if he failed to protect himself by slaying the deceased? Upon that question all the facts occurring at the time as you shall find them to be, in connection with previous threats made by deceased are to be considered. But threats are of no moment unless the danger of life or great bodily harm appeared to be so imminent *at the time* as required the extreme measure of taking life. If the prisoner was secure in his own store with the door closed—if no assault was made upon his person, although the deceased committed a trespass by coming upon the porch of the store, calling upon the prisoner to come out, yet if the prisoner at once opened the door and struck with the fork it would not be in self defence.

If however, there is anything in the evidence or circumstances that proves an attack upon the prisoner after he opened the door and before he struck with the fork, and that such attack was of a nature to induce a reasonable belief that the prisoner had no other means of escaping death or great bodily harm than by slaying the deceased, his defence of his person was excusable. But it is our duty to say, that before you come to that conclusion you must be satisfied clearly by the evidence or by circumstances *proved*, and not by *conjecture* that such assault was made by the deceased.

Did the deceased do any other act than go across the street in an angry manner? Did the prisoner apply to him opprobious epithets across the street, or did he cross the street because of the altercation between prisoner and his wife—and not by reason of taunts by the prisoner? Did he do anything besides flourishing his cane and desire the prisoner to come out? Was the prisoner then safe upon the *other side* of the wall? Was there any apparent danger of injury to his person? If so was there reason to apprehend immediate danger in case he attempted to retreat?

If there was an attack by the deceased upon the prisoner so sudden and violent as to render it really or apparently dangerous for him to attempt to escape from it, he might at once defend himself But on the other hand if there was not such real or apparent danger he was bound to retreat as far as he could with apparent safety.

If there was an actual assault upon the prisoner by attempting to strike when within striking distance with a cane likely to kill or do great bodily harm the question of self defence arises, otherwise not. In considering this question the character of the weapons in the hands of the parties—the place where they were—the opportunity to retreat and every other fact proved upon the subject, should be allowed due weight.

It is not sufficient to acquit that the evidence leaves your minds in doubt upon this question. The burden of proof rests upon the defendant or must be satisfactorily gathered from the circumstances.

If the homicide was not excusable it was either murder or manslaughter.

Was there such provocation as in law will reduce the offence to voluntary manslaughter? We have already said that words and gestures are not recognized by law as a sufficient provocation to reduce a killing below the grade of murder. And we now say that a trespass upon the premises of the prisoner and angrily requesting him to come out without more, even though the purpose may have been to fight, would not reduce the grade of the offence to manslaughter, if the prisoner opened the door to assail him and did at once assail him with a deadly weapon. But if there be any evidence which proves that the prisoner opened his store door to drive away the deceased and was assaulted by the deceased with the cane which he had in his hand and the prisoner was thereby lashed into a passion, and in the heat of blood, at the moment, seized the first weapon at hand and struck the fatal blow, the offence would be but manslaughter.

For the mere purpose of freeing the prisoner from the presence of the deceased, he had no right to resort to the fatal use of a deadly weapon. Even if there was a challenge to come out and fight or settle their difficulties, the use of a dangerous weapon and taking the deceased wholly at a disadvantage would be evidence of malice.

If the killing be found to be excusable in self defence the defendant is entitled to an acquittal. If it was upon sufficient provocation and not with malice the verdict should be guilty of voluntary manslaughter; but if without such provocation and passion and without excuse, the offence is murder. If murder, the most important question will be as to the degree.

The Act of Assembly of this Stase passed in 1794 and re-enacted in the criminal code in 1860 provides that all murder which shall be perpetrated by means of poison or 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 of the first degree, and all other kinds of murder shall be deemed murder of the second degree; and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether it be murder of the first or second degree.

This statute has been the subject of consideration and judicial construction in many cases, and it may be stated as the uniform conclusion, that except in cases where the crime is committed in the perpetration or attempt to perpetrate either of the felonies mentioned, the intent to kill is of the essence of the offense of murder in the first degree. The act must not only be wilful, deliberate and premeditated, but there must exist in *addition* the *intent* to take life

This general statement of the law may not convey to your minds the exact force and meaning of these words, wilful, deliberate and premeditated as used in the statute. For the purpose of more full explanation, and that you may clearly understand what facts must be found before there can be a conviction of a capital offence, I will be more explicit.

If an intention to kill exists, it is wilful; if this intention be accompanied by such circumstances as evidence a mind fully conscious of its own purpose and design, it is deliberate; and if sufficient time be afforded to enable the mind to frame the plan to carry the design into execution, it is premeditated. The law fixes upon no length of time as necessary to form the intention to kill, but leaves the existence of a fully formed intent as a fact to be determined by the jury from all the facts and circumstances in evidence.

The law regards and the jury must find the actual intent to kill, with so much time for deliberation and premeditation as to convince them that this purpose is not the immediate offspring of rashness and impetuous temper, and that the mind is become fully conscious of its own design. If there be time to frame in the mind fully and consciously the intention to kill, and to select the weapons or means of death, and to think and know beforehand, though the time be short, the use to be made of it, there is time to deliberate and premeditate.

The proof of the intention to kill, and of the disposition of mind, constituting murder of the first degree lies on the commonwealth. But the proof need not be express or positive. It may be inferred from the circumstances. If from all the facts attending the killing the jury can fully and satisfactorily infer the existence of the intention to kill and the malice of heart with which it was done they will be warranted in so doing. He who uses upon the body of another at some vital part with manifest intention to use it upon him, a deadly weapon, must in the absence of qualifying facts be presumed to know that his blow is likely to kill, and knowing this must be presumed to intend the death which is the probable and ordinary consequence of such an act. He who uses a deadly weapon without a sufficient cause of provocation must be presumed to do it wickedly or from a bad heart. Therefore he who takes the life of another with a deadly weapon, with a manifest design thus to use it upon him, with sufficient time to deliberate and fully to form the conscious purpose to kill, and without any sufficient reason or cause of extenuation is guilty of murder in the first degree.

But if from the circumstances and evidence in the case the jury believe the intention with which the act was done, although a deadly weapon was used, was not to take life but to do great bodily harm, the grade of murder would be reduced to murder in the second degree. If there exists a reasonable doubt as to the specific intent to kill such doubt should operate to reduce the offence to the lower degree.

Does the evidence show that the act charged was done by the prisoner with the intent to kill the deceased? If out of feeling of animosity and previous spite and ill will or other motive, he formed the design to kill the deceased, and was conscious of having formed that design, and selected the weapon with which to accomplish his fully formed purpose with the deliberate intention therewith then to kill the deceased, he is guilty of the capital offence.

But if, on the other hand, owing to the sudden appearance of the deceased upon his premises, his action was the immediate offspring of rashness and an impetuous temper, and without premeditation or any deliberation he seized the first weapon at hand, and without any formed design other than to do bodily harm inflicted a mortal wound the offence under the schedule would be murder in the second degree. Suddenness is opposed to deliberation; it restricts the opportunities and means of its manifestation, and the jury must, before they can convict of the capital offence, be well convinced that there was time to deliberate and premeditate.

We have spoken of reasonable doubt What is a reasonable doubt? It is not sufficient for the prosecution to establish a possibility, the evidence must establish the truth to a reasonable certainty; it must convince and direct the understanding and satisfy the reason and judgment of the jury who are bound conscientiously to act 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, would 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 in regard to any matter in respect to which we have spoken of doubts, the prisoner is entitled to the benefit of it.

We do not dictate, but suggest that an orderly method of considering this case would be to inquire, First, whether the blow inflicted by the prisoner caused the death of the deceased?

Second, whether the killing was under such circumstances as the law requires to exist in order to excuse a homicide in self defence.

Third, if not, was it with malice? Was it wilful, deliberate or premeditated, with the specific intent to take life, and therefore murder in the first degree. If not deliberate and premeditated, was it with malice, with intent only to do bodily harm, and therefore murder in the second degree.

Fourth, Has the prisoner shown by his evidence or does it appear in the circumstances shown by the commonwealth, that the killing was in the heat of blood caused by provocation on the part of the deceased and without malice, reducing the grade of the offence to voluntary manslaughter.

If you find the offence to be murder, the law requires you to say in your verdict whether you find the prisoner guilty of murder in the first or murder in the second degree.

If the grade of offence is reduced below murder the verdict may be guilty of voluntary manslaughter.

It has been said in argument that the jury are judges of the law as well as of the facts. This is correct to the extent that if the jury in any criminal case acquit, there is no power that can correct the verdict although it may be against the law. But under the law of this State, the defendant may except, in a homicide case, to any ruling of the Court and remove the case to the Supreme Court for correction. It is not, therefore, strictly correct to say that the jury are judges of the law. As we said in the outset the law is for the Court, and the facts for the jury.

In this charge we have not aimed at originality but have followed in the beaten track of eminent judges and writers on criminal law.

Thus far in the progress of this trial, all who have witnessed it must be satisfied that it has been conducted in such manner as best to elicit and bring to light the facts attending this sad tragedy. We now leave the issue with you, fully convinced that your verdict will be the result of impartial judgment.

If your verdict shall be the result of conscientious conclusions, based upon the evidence, neither the Commonwealth nor the prisoner will have just cause for complaint. The case is committed into your hands

NEW ADVERTISEMENTS.

Real Estate Sale.

One corner lot 70 feet front, 198 feet deep, situate in East Bloomsburg, on which is erected a good

BRICK HOUSE,

frame out kitchen, with good well of water in kitchen, and a good spring-house cellar under it. Also a

FRAME STABLE

50 feet long, and other outbuildings.

There is also a variety of fruit on said lot, such as apples, pears, peaches, plums, cherries, grapes, &c. If not sold by January 1, 1876, it will be for rent.

There are also

THREE ACRES

of good farm land not far from said lot, with a good spring of water on it.

The three acres of land with the house and lot would make a desirable home for a retired farmer. Land is in a good state of cultivation. The house is now occupied by me for a number of years up to April last, and was in good condition. Any one wishing to purchase can call on me, when terms will be made known.

Bloomsburg. WM. KRICKBAUM.

Dec. 17, 1875.-3t

ORPHANS' COURT SALE

OF VALUABLE

REAL ESTATE!

By virtue of an Order of the Orphans' Court of Columbia county, the undersigned Administrators of the estate of Peter Bitner, Jr., will expose to Public Sale on the premises on

MONDAY, JANUARY 3d, 1876,

at 10 o'clock, p. m., the following described real estate to-wit:

A MESSUAGE AND TRACT OF LAND,

situate in Locust twp., Columbia county, adjoining lands of Edward Straussser, David Stine, A. P. Fisher and Jacob Gable, containing

ONE HUNDRED AND EIGHT ACRES,

more or less, ten acres of which is good timber land, saving and excepting four acres of the aforesaid tract of land set apart to the widow. There is also on the premises a

GOOD APPLE ORCHARD,

a good spring and spring-house, frame bank barn,

AND FRAME DWELLING HOUSE,

and the usual out-buildings.

TERMS OF SALE.—Ten per cent of the one-fourth of the purchase money to be paid at the striking down of the property; the one-fourth less the ten per cent. at the confirmation of sale and the remaining three-fourths in one year thereafter with interest from confirmation ni. si.

LEWIS DOTY,
MICAEL STINE,
Administrators.

Dec. 17, 1875.

READ THIS NOTICE!

Having engaged in the Clothing Business the undersigned takes pleasure in announcing to the public that he will have in a few days a splendid stock of

READY MADE CLOTHING

AND

GENTLEMENS' FURNISHING GOODS

OVERCOATS,

CAPES,

SHIRTS,

GLOVES,

HATS,

CAPS,

and all other goods belonging to a first class

CLOTHING ESTABLISHMENT,

As he is not obliged to make large profits, to pay a heavy rent, he can afford to sell at the very lowest prices. Don't fail to call and examine his goods. You will save money by it.

Store in the old Post-office building, Main Street below Market, 1 door south of I. W. Hartman's block.

M. C. BRITTAIN.

Dec. 17, 75-6m BLOOMSBURG, PA.

NOTICE.

I hereby give notice that I have assigned, and transferred to Mrs. Rilla Brobender, for value received, all my notes, and accounts, whether on book or otherwise, and she is hereby duly authorized to collect the same for her own use.

G. W. HAUCK,
Mifflin & Roads,
Col., Co., Pa.

Dec, 17, 75.-3t *

WANTED.—A SITUATION.

In a good custom mill, to run either on shares or for monthly pay. Good Reference can be given. Address JAMES KNITTLE,

Dec 10,75-2w. Mill Grove, Col. Co., Pa.

SAVE MONEY

by sending $4.75 for any $4 Magazine and THE WEEKLY TRIBUNE (regular price $6), or $5.75 for the Magazine and THE SEMI-WEEKLY TRIBUNE (regular price $8). Address

THE TRIBUNE, New York.

EXECUTOR'S NOTICE.

ESTATE OF ESTHER BARBER, DECEASED.

Letters testamentary on the estate of Esther Barber late of Madison township, Columbia county, deceased, have been granted by the Register of said county, to D. A. Wilson, of Madison township, Columbia county, Pa., Executor, to whom all persons indebted to said estate are requested to make payment and those having claims or demands against the said estate will make them known to the said Executor without delay. D. A. WATSON,

Nov. 5—6t. Executor.

DEBTORS TO THE COLUMBIAN.

Persons indebted to the undersigned for subscription to the COLUMBIAN are hereby informed that they may at any time settle the accounts due by them to me with E. E. Orvis, Esq., at room No. 1, Columbian building. After February court, the extra fifty cents per year will in all cases be added.

Persons owing accounts for advertising and job work are informed that settlement must be made, by payment or note, within 30 days, or they will be placed in the hands of a justice for immediate collection.

H. L. DIEFFENBACH

E. L. Myers is no longer authorized to collect for the COLUMBIAN or to receive money for me.

Dec 1, '75-tf

NOTICE.

From this date the Bloomsburg Gas Company will put in service pipes at first cost and furnish and set meters at four dollars each.

The company have on hand a lot of gas tar suited for painting roofs, and posts or other timbers placed under ground.

Price 10 cents per gallon or $2.00 per barrel.

C. W. MILLER,
Supt.

Oct. 15, 75-tf

NEW ADVERTISMENTS.

1875. CHRISTMAS. 1875.

Our Crowning Effort.

TO OUR MANY FRIENDS AND PATRONS.

For the past four years we have given great attention to

CHRISTMAS AND HOLIDAY PRESENTS.

Each year we have striven to excel our former efforts having profited by the experience we have had, we announce this as our

CROWNING EFFORT.

For two weeks we have been working night and day to make it so. How well we have succeeded it is necessary for you to call and examine the largest and most beautiful stock of goods we have ever yet displayed in Catawissa. To begin we call your special attention to our large and beautiful stock of

Alabaster, Lava, Crystal and Bohemian Vases and Toilet Sets.

Over 100 styles purchased for cash at a recent sale in New York which we offer at one-half their real value. Also, to enable you to select suitable presents, we call your attention to the following

PRESENTS FOR LADIES' AND CHILDREN.

Beautiful neck-ties from 12½ to $2.00
Silk mufflers white or fancy 50 to 2.00
Lace ties 60 to 75 cents each
Roman scarfs 75, 87, 1.00 to 3.50
Lace handkerchiefs 25, 50, 75 to 1.00
Plain linen handkerchiefs 6, 12½, 18, 25 to 75
Initial handkerchiefs 25 and 40 cents
Kid gloves, all colors, sizes and prices
Kid and cloth gauntlets 40 to 1.75
Real lace collars 50 to 2.50
Linen collars and cuffs in sets in handsome boxes 50 to 75
Work boxes and writing desks large variety from 1.00 to 5.00
Ladies' sewing, writing and traveling necessaries, in Russia leather cases
Photograph albums 1.00, 1.50 to 8.00
Musical albums
French ink-stands and paper weights
Music cases, card cases, handkerchief and glove boxes. All prices