BROCKWAY & ELWELL, Editors

BLOOMSBURG, PA.

Friday, March 2, 1876.

THE PRESIDENCY

The Electoral Commission farce is played and the actors have retired to await the final result pfotheir action. On Friday the vote of Gregon was given for Hayes-8 to 7. The House refused to so count the vote, but day the South Carolina vote was counted for Haves-8 to 7-by the Commission. In the cases of Oregon and South Carolina the Commission unanimously rejected the votes of the Tilden electors-but the vote to admit the Hayes electors stood at the old figures -8 to 7.

As matters now look it is probable that the whole number of States will be counted before the 4th of March, and Hayes will be the First Franchilent President of the United

THE HERALD, AND TIMES.

daily inaccuracy of the reports published in law applicable to the case and the facts as the New York Herald and Philadelphia established by the evidence. Times was a frequent subject of remark. The prisoners by which the sharpest detective cording to the law and the evidence. could be unable to identify any of them. He except that Michael Graham was not in jail on the 21st, having been discharged eleven his counsel, for the reason that no indictment had been found against him, and the Commonwealth had no intention of sending one We are not familiar with Graham's rehabits; and therefore cannot say whether he reads his Bible or not. If we had taken time each day to collect the errors and misstatements of these reports we might fill a column. Suffice it to say that if the young man who furnished them to the large daily papers had spent more time in the Court make the acquaintance of pretty girls in this

not of particular interest to the people of the at the bar, nor the community in which we State unless they are characterized by some peculiar features-great frauds or something out of the usual course of events. It has been so long, however, since there has been anything like an honest and fair election in der W. Rea on the 17th day of October, delphia, that we hardly expect to awaken an emotion in the breasts of our readers. by stating that the recent election in that city was conducted on the old scale of fraud, intimidation, false personation and repeating. The police devoted themselves to the shielding of repeaters, the arresting of deputy sheriffs and the controlling of the polls, with perhaps more than ordinary energy, and Stokley obtained a nominal majority of over 2700 otes. He was in reality-if none but honest votes were counted-defeated by at least 5000 majority. There is some talk of contesting the election. Stokley was indorsed by some of the leading men of the city, Messys. Borie. Drexel and others, gentlemen who must have committed by the police with intense satisfaction. It is of course Philadelphia's own buiness and if her leading men choose to endorse a mayor under whose rule the debt of the city has increased \$5,000,000 per annum they have a perfect right to do so-and also to pay the annual increase of taxation amounting to \$3,000,000. The Philadelphia Times was the only newspaper that opposed Stokley (by the way its the only newspaper in Philadelphia,) and fought with glorious vim to defeat him. Bill. McMullin, with his Democratje allies, and the kid-gloved aristocracy proved too much, however, for the overburdened taxpayers and Stokley will probably be his own shall arrive at he conclusion that wealthy mer chants and bankers are not of necessity the best political guides, they will have taken an there may be those, not yet white-baired, City of Brotherly Love.

J. Madison Wells recently testified that Mr. Duncan F. Kenner, a prominent citizen of New Orleans, offered him \$200,000 to count the vote of Louisiana for Tilden. It turns out that Wells offered to count the vote for State hawked about the streets for sale to the highest bidder. The High Commission say that it's all right-can't go back of the returns,

No less than four Rear Admirals have died since the 9th inst. Charles Wilkes on the 9th, Theodore Bailey on the 10th, Charles H Davis on the 18th, and Louis M. Goldshor ough on the 20th. Wilkes and Bailey entered the navy nearly sixty years ago, in 1818, Davis about 44 years ago and Goldsborough 65 years ago, in 1812. All four died in Wash-

Joon Sherman was right after all. He said that the decisions of the Louisiana Returning Board were entitled to as much respect as

Hon, James P. Sterrett of Pittsburg, has en nominated and confirmed as Judge of company. She did not see him again until he Supreme Court of the State vice Hor

THEREA MURDER.

JUDGE ELWELL'S CHARGE TO THE

The following is a verbatim report of the charge of Judge Elwell, in the recent mur-Gentlemen of the Jury : Over two weeks

ago you were selected according to the solemn forms of the law to sit as the tribunal to pass upon the facts in this important case. During the whole of this protracted investigation you have submitted with commendable patience to the confinement incident to a trial of this nature, and I have observed lying upon its back, face up. that from the first opening of the case to this time you have given to it your individual attention and have listened to the evidence and the argument of counsel with evident auxiety to assertane the truth in regard to under the Commission act the Haves electors the homicide charged against the prisoners were counted in joint convention. On Thesof duty deserves all proise, and is especially your due for the uncomplaining manner in which you have borne the bardship of being separated from your families and from the pursuit of your own private interests and

business. You have been warned by counsel against prejudice and prejudgment. Your answers to inquisies when called to those seats forbid the idea that any caution from the court is necessary on that subject. I cannot bring my mind to fear that the verdict of twelve upright and intelligent jurors, selected by lot from the mass of their fellow citizens, During the trial of the Rea Homicide, the will be founded upon anything besides the

Something has been said in regard to pubtestimony was perverted by the reporter and lie excitement as having an influence upon even the witnesses for the defense were rep- trials of this character. Trials for murder, resented as giving their testimony in a man- on account of the momentous issue dependner that invariably operated against the pris- ing, always excite the public mind and call oners. The integrity of the counsel for the together crowds of people. But we have no defense was attacked by the statement that reason to believe that there is on this octhey were attempting to save Hester at the casion any other desire among the people erifice of MeHugh and Tully. We give a than to witness the proceedings, nor any few specimens of this reporter's inaccurary, other wish than that justice be faithfully ad-The Headd had it that A. Rooney Wolver-ministered according to law. Public opinion ton opened the case for the prisoners. We is not formed under the sanction of an oath know of no such a man. S. P. Wolverton, a nor upon sworn testimony. Its voice, whatgentleman well known in this section of the ever it may be, is not heard in a court of State for his legal ability, made the opening justice where those who are charged with adspeech. In a letter to the Times, dated Feb. ministering the law are bound by the high-21, the reporter gives a description of the est obligations which civil society can imfail, which clearly proves that he has never pose upon man, the court to expound the been inside its walls, and a description of the law and the jury to render their verdict ac-

The magnitude of the charge, involving also states that Michael Graham at the 21st, as it does issue of 'life or death, prison or was locked in the same cell with Hester, Tul- liberty to the defendants, should have no ly and McHugh; that he was under an indiet- other influence upon your minds than to nent for being an necessory after the fact in make you cautious, deliberate and just in the nurder of Rea, and spent most of his weighing the evidence, and clear and satisfitime in reading the Bible. This is correct. ed in the judgment you form upon it. You will constantly bear in mind your duty to society, and will not fail to remember also the justice and impartial consideration which the defendants have a right to expect at your hands. The majesty of the law which protects and defends the sauctity 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 oblivious alike to sympathy and vengeance.

This case has been prepared by the counsel on both sides with great industry and has been presented and argued with marked room, and less time on the streets, trying to ability and learning. Where their labor ends your task begins. The duty of the sleepy town as he calls it, his labors would court will end when we shall have instructed have been more faithfully and accurately per- you as to the law of the case, and rendered fact or of a body of facts so connected and formed. Whenever the Herald and Times to you such service as may be in our power linked together as to produce as firm a behave occasion to send a reporter here again, to place at your disposal, to assist you in the lief of the main fact sought to be established who will attend responsible office of applying the law to the as the most precise detail embodied in direct judgment and ability, neither the prisoners

live, will have just cause of complaint. The prisoners, Patrick Hester, Peter Mo Hugh and Patrick Tully, are charged in this indictment with the murder of Alexan-1868. The indictment is in the form no authorized by the criminal code of procedure in this State. Under that code the manner of the death need not be set forth in the stated whether the accused was a principal in the felony or an accessory after the fact.

Murder is where a person of sound memo ry and discretion unlawfully kills sny reasonable creature in being and in the peace of the commonwealth, with motive aforethought, express or implied. Whenever there is a former design to take life, the motive is express. It is implied from any cruel or barbarous act evincing a heart regardless of social duty and fatally bent on mischief, read the reports in the papers of the day fol. I do not understand that there is any queslowing the election, concerning the outrages tion as to the grade of the homicide in this case, which requires that I should trouble you with definitions upon the subject. Nevertheless, as nothing should be taken for

read to you the statute upon this subject. It is as follows : "All murder which shall be perpetrated by means of poison or by lying in wait, or by any other kind of wilful, deliberate, or 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," You will observe that this statute recognizes two deimportant step in the path of reform, and grees of murder. It declares all death by poison, or lying in wait, or in committing who will live to see an honest election in the or attempting to commit any of the specific crimes shall be deemed murder of the first degree ; in all other cases, where there is absent the specific intent to take life, the murder is of the second degree. Where the killing is by lying in wait, or in the act of robbing, or attempting to rob the deceased the law fixes the grade of crime as murder out that Wells offered to count the vote for Tilden for that sum. Nice commentary on a republican form of government, the vote of a potrator to take life. Robbery is the felonions or forcible taking from the person of another goods or money to any value by violence or putting in fear. All persons who aid and assist in the perpetration of a felony

are principals in the offense. One who,

counsel, command, or abet another to con

though absent at the time, does yet procure

nit the offense is an accessory before the

fact, and is in the law equally guilty with

the principal felon. He may, therefore, be

charged generally in the indictment with he commission of the offense, and tried in the county where the principal committed the felony. Thus much for the law of the case. The facts must be gathered from the onn Sherman was right after all. He said t the decisions of the Louisiana Return-Board were entitled to as much respect as so of the Supreme Court. They are—just Rea, her husband, the deceased, started to go toward Mount Carmel on the road from Centralia. He was then agent or superior tendent of the Coal Ridge improvement coa the morning of the 18th. He was the cumetances are the facts which stand around the main fact and tend to establish its ex-

about nine o'clock on the morning of the 17th riding in a buggy, alone, in Centra la, driving toward the Coal Ridge colliery, his place of business.

Edward Schaeffer testified that he saw him

driving away from Centralia at twenty minutes past nine, and Samuel Richards saw him at fifteen minutes past nine on the streets

of Centralia in his buggy.
On Sunday morning early his body was found by Daniel Buchanan, as he testified, on the right hand side of the road leading from Centralia to Mount Carrael, not be from a place known as the "Water Barrel, in a clear spot with brush all around it and a path leading to it. The body was found

Dr. E. L. Betterly, who made a post mor tem examination, testified to six pistol-shot wounds about the body and bend, five of which, in his opinion were mortal. wound in the face, three in the body, upput ently fired from the front, we in the m and one at the base of the skull behind the

Justice Kealy, who acted as coron r, also testified to the six wounds on the body. No watch or money, except a few copper coins, were found on the body.

Without recurring to any other evidence you will no doubt be satisfied that Alexander W. Ren was murdered. Although conceded it is nevertheless for you to find from the evidence. In regard to the time when he was killed the commonwealth has introduced testimony, as before mentioned, as to the time when deceased was seen at Centratia, also as to the distance from Centralia to the "Water Barrel"-about a mile and a half and also that several men were see near to "Water Barrel" a short time before deceved probably reached that point, some time between nine and ten o'clock in the morning.

On the subject of seeing men by the side of the road, Wm, H. Sauman testified that he was driving slowly on that road that morning and was passed by Latsyette Fetterman who was in a buggy; that he saw a man come out of the woods, look up the road, and go back. Lafayette Fetterman testified that he passed over the road, reaching the "Water Barrel" about nine o'clock; that when he was about a quarter of a unite from that point he saw four or five men on the right hand side of the road, who disappeared in

the brush as he drove up.

The theory of the commonwealth is that these men were lying in wait for the deceased, expecting him to pass over the road on his way to the Coal Ridge colliery with a large amount of money, and that they stopped himon the road and robbed and killed him. You will probably have no difficulty in coming to the conclusion under the evidence that such were the facts independent of the testimony of Daniel Kelly, who admits that he was an accomplice of the musderers. Whether the prisoners or either of them were present at the homicide, or advised, counseled or abetted those who acted as principals, is the great question in the case for your determination. The law presumes a man to be innocent until the contrary is proved, or appears from stronger presumption. This presumption is grounded on reason, justice and humanity, and must prevail until it is destroyed by an overpowering evidence of guilt. At every stage of your inquiries you must give to these defendants the benefit of the presumption until guilt is clearly established, and also the benefit of

any reasonable doubt. Evidence is that which convinces the of the truth of a proposition. It may consist of a direct and positive testimony of a fear of God and according to the best of our has given direct and positive testimony by the eath of an accomplice, that Peter Mc Hugh and Patrick Tully were present at and assisted in the murder of Mr. Res. and that Patrick Hester devised the plot and furnished in part the means for its execution. It is complice is corroborated by facts and circumstances which entitle his testimony to belief. On the ground of public policy and of necessity, from its being scarcely possible to detect conspiracies and other great crimes indictment, nor is it necessary that it be without their information, the evidence of be corroborated by unimpeachable testimony in some material part which affects each inwith the crime.

This confirmation may be either by direct testimony or by such a chain of circumstances without involving the priseners in any share night of the murder at Michael Graham's at of the offense, but it is not necessary that an a raffle; that Hester said the namey was not accomplice should be corroborated as to all worth dividing. He further tespified that the naterial facts. If he is corroborated in any day after as he thinks, Thomas Donohue was of the material facts as to the participation arrested for the murder, that he Jack Smith of the prisoners, more is not required, and if Lafferty Tully, and McHugh, went to se he is thus confirmed, and if the jury believe Hester, and that Smith informed Hester o his testimony they may act upon it. Whether Donohue's arrest, when Hester replied, "it is he is so confirmed by the evidence is a quest near time that I should clear out," and that tion which the jury are to determine. Cor- he left that night, and that on the next night roboration as to one of the prisoners is not or two the witness, Tully and Mellugh left corroboration as to the others. Some con- for fear of being arrested. wise the corroboration cannot be considered

more to whom it applies. Absolute truth is known to the searcher of all hearts, and human imperfection is such as to render it necessary for courts and be fresh to your recollection. If this witness juries to depend upon other evidence than such as direct. "Crimes," says Judge Ludlow, "are often committed in secret, and but for the fact that circumstantial evidence may be produced would go altogether anpunished." Nor is there, when closely examined. such a wide difference, so far as reliability i concerned between direct and circumstantial evidence as is sometimes supposed. In direct testimony we have a precise detail of facts, but there are relations and coincidences of a moral nature from which legitimate inferences may be drawn. Mankind are moved by certain passions and feelings. Under given circumstances men will act in a giver way, which is indicated or ascertained by experience and common sense. If a man acts in a particular manner, he, in general, acts tained in no other way than by a carefu consideration of the circumstances which surround and give character to the act. Cir-

Henry James testified that he saw him istence. The most trifling circumstances

First. We must guard against the false statements of witnesses. This applies whether the evidence is positive or circumstantial.

Second. Where the proof of the fact de pends upon circumstances we shall draw from them no inference save those which are en tirely fair and natural and which are reason ably and morally certain.

Third. We must see to it that each fact or which we rely is independently proved and that each is consistent with the other and with the main fact.

Fourth. Each circumstance relied on mus be consistent with guilt and guilt only; and lastly, we must guard ourselves carefully against any precenceived ideas which might lead us to reason inaccurately from the facts These rules should be your guide in this

use. They have been gathered from standard authorities, have been often applied by

tober, 1868, at the saloon of Thomas Done

hue in Ashland, at the suggestion of Patrick Hester; that there were present at the conspiracy ten persons, viz: Patrick Hester, Peer McHugh, Patrick Tully, Ned. Skivington, Brian Campbell, James Bradley, Wiliam Muldowney, Roger Lafferty, Jack Dalton and himself; that its object was money-Hester informing the others that Rea would go to Bell's tunnel the next day, and that here was money in it for them-eighteen or nineteen thousand dollars-that the whole band had pistols, and that Lafferty provided powder and balls and leaded the pistols; that three or four months, nor Tully until he saw t was agreed to rob, but to kill Mr. Rea; that they all staid in Donohue's saloon drinkiag all night until near daylight when all, except Lafferty, started out to meet Mr. Rea on the Mount Carmel road between Centralia and Mount Carmel; that Muldowney left them saying he was lame; that above the toll gate Hester and Skivington left, Skivington mule, came to his house on the 18th of Nosaying that he would go to work in order to vember, 1868, between the hours of eleven ward off suspicion, and Hester that he would go to Shamokin to buy hair to put in lime for plastering; that he there handed his pistol to Kelly saying, "Your pistol is no good, take mine for I know it is sure," that the money was to be divided between eight of them; that the two others for some reason were to the the two others for some reason were to the time of the two others for some reason were to the time of the two others for some reason were to the time of the two others for some reason were to the two others for some reason were to the time of the two others for some reason were to the time two others for some reason were to the two others. that the two others for some reason were to have no part; that they were all members of the Ancient Order of Hibernians, Hester being the body-master, whose orders, according to the practices among them, they were bound to the practices among them, they were bound at the place known as the "Water Barrel" in the road to Sunbury; that Hester and three others came to his house with two buggies, also claimed that the testimony of the ac- have no part; that they were all members of to detect conspiracies and other great crimes without their information, the evidence of accomplices has always been admitted. They are competent witnesses, but the practice has been long settled that no conviction should be had upon the unsupported testimony ought always to be received with great jealousy and caution, for upon his ewn contession he stands contaminated with guilt. He admits participation in the crime which by his evidence he would fix upon the prisoners. His character is tainted and he may have strong and unadmitted motives to deceive. The testimony of an accomplice before it is accepted as true should he corrodorated by unimpeachable testimony. pear to the side of Mr. Rea, firing upon him; that deceased fell upon his face and fully put his pistol behind his er and fired ; that the g anted in a case of this magnitude, I will dividual prisoner on trial, and connects him party went upon the mountain and divided the sixty or seventy dollars found in the pocketbook; that he kept the waten and gave it to Michael Graham on the evening of the same as clearly tend to support the testimony of day to keep for him, telling him it was Rea's the accomplice. Confirmation merely as to watch; that he afterward ple ized it to Con the circumstances of the felony is not con- O'Garragh for ten dellars; that McGuire gave firmation at all. His narrative of what him \$20 for the watch, and he paid the transpired at the time of the commission of ten dollars to O Garragh, who had been told by the offense, and of the part which he took in him before that it was the watch of Mr. Rea it and how it was accomplished, may be true He further says that he saw Plester on the

> irmatory evidence must be given that an It is quite unnecessary for me to repeat to you accomplice speaks the truth as to all, other- in detail the testimony of the witness upon points in which it is claimed that in other ma as' extending to all, but only to the one or ters than those already stated, he is contra dieted by other testimony. They have been fully brought to your notice and commented upon by counsel and from their pature must was testifying in a case in which he was not an admitted accomplice, the jury would un doubtedly require corroboration of his testi mony before they would accept and act upo it as truth. With equal or greater reason should it be required he being an admitter accomplice in the crime on trial. For year he has made the commission of crime almost the business of his life. Upon his own mo tion, or as the willing instrument of others, he has committed grievous assaults and batteries-has been guilty of riot, of larcenies and finally of the murder of Alexander W. Rea. According to his own confession, he has been during the most of these years connect ed with a secret society having signs and pas words by which members may be known to from a certain motive which can be ascer- bound themselves together, not only for the of each other from detection and punishin However innocent the expressed purpose o

become. The most righting circumstances which has proved in the statistic of mission of the universe.

The free to be given to this kind of testimony is called character in any is called character in a consecution of the statistic ordinary in the case of the consecution of the statistic ordinary in the case of the consecution of the statistic ordinary in the case of the consecution of the statistic ordinary in the case of the consecution of the statistic ordinary in the case of the consecution or approach for the consecution of the consecution of the consecution or approach for the consecution or approach for the consecution of the consecution of the consecution of the consecution or approach for the consecution of the c

ever, to be so far corroborated as to carry belief to the minds of the jury, whether that be as to the whole of the facts, or only to a portion of the material facts which connect the defendants in some manner with the offense. It is contended by the commonwealth that

the prisoners fled when arrests were begun for this murder. In almost every criminal case the conduct of the party in reference to the offense charged is pertinent and ma-terial to be inquired into. The legal presump-tion from flight is against the prisoner, and it lies upon him to rebut it. r light may be very strong evidence of guilt, or it weigh nothing, according to the circumstance under which it takes place. It is always im portant to be considered, and combined with other circumstances may be strong evidence of guilt. The circumstances attending the flight, such as assuming another name, are important as imparting character to the act as intentional, as distinguished from a mereard authorities, have been often applied by learned judges, and commend themselves to our observance.

Daniel Kelly, an admitted accomplice in the murder of Alexander W. Rea, has testified to facts which, if believed to be true, establish the guilt, af all the prisoners. He fight proceeds from the conscious of a high crime, however conscious of innocence, might not have the courage to stand a trial, but might think it necessary to consult his safety in flight. Whether the fear that prompts of the conscious of t fied to facts which, if believed to be true, establish the guilt of all the prisoners. He says that the robbery and number of Mr. Rea was planned on the night of the 16th of October, 1868, at the saloon of Thomas Denot can be judged only by reference to concomtant circumstances.
Did these defendants, or either of then

fee on account of this murder? The arrost of Donohue and Duffy was made on the 17th of November, 1868, charging them with the crime. On that day, after Mr. Morrison beard of the arrest of Donohue (that arrest having been made about six o'clock on the evening of November 17, 1868), he testified that he saw Smith, Aleck Lafferty, McHugh, Tully and Kelly going toward Hester's, between seven and eight o'clock in the morning, no' in their working clothes. He did not see Hester after that until he had been here in jail (May, 1869), nor McHugh for him here in court, and before that he saw McHugh and Tully almost every day. It does not appear that the witness saw them at Hester's. The daughters of Hester testify that they were not there, and Garner

naturally inquire when or how they got to-gether to take the cars at Sunbury, as stated in the letter. Did Hester go to Sunbury on the night of Monday, the 16th, and remain until Thursday, the 19th, or is there a mis-take as to the time when he left home? You will resolve this matter in his fayor, if you can do so consistently with a fair and a rea-sonable view of the evidence.

On the part of the defendants, testimony On the part of the defendants, testimony has been given for the purpose of contradicting the testimony of Daniel Kelly and also showing that Hester left home for the west before the arrest of Douohue, and to show th t his leaving was for other reasons than those attributed by the commonwealth. Con O'Garragh testifies that he was married on the 16th of November, 1868; that Maria Hester, now Mrs. Dooley, was bridesmaid, and she testified that her father left home that evening; was gone when she returned home. The two other daughters of Mr Hester testify to the same fact, and Garner Pepper to the same, as to the time of his leaving. It is also testified that he was seen on his route that night of the 16th of No mber on his way to the west, and it is testified by these witnesses that he left home for fear of trouble in regard to ifficit distilling of whisky and of trouble with his wife

in regard to another woman. If these witnesses are correct as to the time and as to the cause of Hester leaving, it disproves knowledge of the arrest of Donobue and destroys the force of the circumstance of his absenting himself from home at that time. Compare the letter as to the matter of time with the other testimony, and also its consistency, or inconsistency, with the reasons now given for the visit to the west. If you had also be consistent with the feature of the consistent with the feature of the consistent with the feature. find it to be consistent with the facts testi-fied to, the defendant, Hester, is entitled to have its contents so understood. You will examine it carefully in the light of all the You will inquire how far Kelly is con

You will inquire how far Kelly is corroborated by the testimony of the witness, E. G. Harris, who says he passed Hester and seven or eight other men above the toll-gate on the morning of the 17th of October 1868. Did he see him there and was the point described by the witness near to where Kelly says Hester left and started away? If you find it to be so it will be for you to determ: says Hester left and started away? If you find it to be so it will be for you to determine whether it does not confirm the testimony of Kelly in a material point or whether, as claimed by counsel for defendants, it is consistent with the theory of the defense that he was on his way home from Luby's house. You will remember also the testimony as to the time Hester reached home that morning—his ride upon the hand car; the distance he had traveled from the point where Kelly says he left the party and ascertain whether there is corroboration or contradiction of Kelly in these facts. Bearing in mind that the exact time of the happening of a circumstance not noted at the moment and to which attention is not called until sometime afterward is not likely, generally, to be semembered. If several of the

rule which admits an accomplice as a witness that he was not at the saloon of Donohue in might as well be abolished. He ought how Ashland, when and where the conspiracy to ob and murder Mr. Rea was concocted. rob and murder Mr. Rea was concocted, as testified by Kelly. The defense of alibi is to be closely examined whenever it is set up. It should cover the whole of the time of the transaction, so as to render it impossible that the prisoner could have been at the scene, and when it is employed to destroy the force of a fact alleged or proved by the prosecu-tion, it should cover the point of time with

learness when the alleged fact occurred. Evidence in support of an alibi ought to ving, as it does, an inquiry into time in regard to which mistakes may be honestly made and perjury may be committed al-most with impunity. But when it is estabished by unsuspected testimony it is the best negative defense that can be offered. It is then really positive evidence, which in the nature of things implies a negative, and in many cases is the only evidence which an innocent man can offer. But if this defense is false, when a defendant fails to establish it by reliable testimony, his attempt, alhough not conclusive, is strong evidence gainst him. The difficulty in fixing time v the memory of witnesses whose attention not called to the subject until some time fterward is known to every one. Actual facts which have occurred may be mistook or be intentionally so transposed as to have en apparent y concurrent with the hapening of some other event. It is your pr nice as well as duty to examine the evi-ence on this subject with care Kelly says that Hester missed the train

o Mahanoy Plane and came on in the after-oon of the 16th of October to Ashlani. To isprove this fact the testimony of John bonohue is introduced to prove that Hester was at the Pianethat afternoon. It is also shown that on that afternoon, after banking hours, Hester deposited a draft in the bank at Ashland. It is claimed that after he came ohue's saloon on the evening of the 16th of October as testified by Kelly. On that sub-ject you have the testimony of Patrick Fa-ney, Luke Richardson, John Britt, Dennis McLaughlin, Peter Luby, and Thomas Cas-ey, which it is claimed establishes that he vas not at the saloon, but at other places du ing the evening and night. The testimo

If it proves to your satisfaction that Kel-Donohue's saloon, if the and to that con-then the testimony of Kelly as to that conthen the testimony of Kelly as to that con-spiracy is effectually destroyed. You will carefully examine the evidence on this point. These principles or rules on the sub-ject of alibi are applicable in several instan-ces in this case. It is alleged that Hester could not have been at Ashland in the atternoon of the 16th of October, because he was at Mahanoy Piane; that he could not have at Mahanoy Piane; that he could not have ben at Donohue's saloon, because on the evening and night of the 16th he was at other places; that he could not have been seen by Kelly, McHugh, Tully, Smith and Laferery on the morning of the 18th of November, the day after the arrest of Donohue, because he had started for the west on the night of the 16th, and as to McHugh and to have asserted that he did not regard the obligation of an oath shown to have contra-Tully an alibi is set up that they were at Michael Graham's during the morning of the 17th, and therefore could not have been the 17th, and therefore could not have been upon the mountain at the murder of Rea. Examine this evidence as to these matters with care. If you find the facts to be as alleged, they make strongly for the defendants, but if false, the fact of asserting them as true is a circumstance against the defendant setting them up.

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The credibility of witnesses is for The credibility of witnesses is for you to decide for yourselves. You, and not the court have to deal with facts. When testimony is contradictory it should be reconciled if possible. If not su-ceptible of reconciliation it must be weighed by some dis-cretion and determined as one or the other preponderates. If after all the mind is balanced it is reasonable that it be determined anced it is reasonable that it be determined against the party alleging the fact. In de-ciding upon the facts the circumstances of the case, the probable or improbable nature of the facts detailed, the character of the of the facts detailed, the character of the witnesses, must be all taken into consideration, after being duly weighed, to carry conviction to the mind of the jury before they give it effect by their verdict. If the testi mony of a witness does not carry belief home to the mind of the jury in view of all the circumstances of the mind of the jury in view of all the circumstances of the case in due consideration they should reject it. On the contrary if, in view of the whole case, they do believe the testimony they may receive an act upon it although it may be co tradic ted by other testimony. When the char-acter of a witness for truth is impeached and shown to be bad, the jury should examine carefully his testimony and if he be not co

tion.
In regard to the corroboration of Kelly a to Tuly and McHugh you have the evi-dence of their connection or companionship before the murder of Mr. Rea; of their beof Tally and McHugh you have the evidence of their connection or companion class as supported in the indicated.

The observation of Daniel
de was a rested as testified by Morris Morris
on You have the testimony of Mars Barry dependence on the morring after Donohe to the second of the second of

This is correct.
Third. That Daniel Kelly is an account plice in the killing of Aiexander W, Rea, and as such accomplies is regarded as an infamous witness, and the jury would not be justified to finding a verdet against Patrick Hester, Patrick Taily, and Peter Mattugh, or any or either of them, upon the testima of of Duriel Kelly autess his testimary is confirmed to such material parts as con-nect the defendants with the killing of Rea by the testimony of trustworthy witnesses. We have affirmed the decrease of this point in the general charge, and now again | Court House bell gave starting notice that

we say it is correct

Fourth, Paut the confirmation of the tes imony of Daniel K-liy, an accomplice, in such subordinate matters alone as may be true and at the same time consistent with the innocence of the defendints, is not such a confirmation of K-ily as will justify the ury in rendering a verdict against them.
I have already said that the corrobora-

tion required by the rules of practice shall be to some material matter connecting the tation precluded the possibility of any other prisoner with the crime and I repeat it as facility than the other of the prisoner. an answer to this point. But it is not necessary that the corroboration shall be by direct testimony. It may be by such cir-cumstances as satisfy the jury of the fact. Fifth. That there are no witnesses in this case who have testified to any facts that

testified to by other witnesses are as consistent with the innocence of each and every one of the defendants as with their guil . I decline to answer this point as request-I decline to answer this point as requested. Whother the testimony of other witnesses besides Dauiel Kelly is consistent
with the guilt or innoceace is for the jury
and not for the court to determine.
Sixth. That no fact or circumstance in
relation to the killing of Rea, detailed by

relation to the killing of Rea, detailed by Daniel K-lly, and unsupported by other trustworthy witnesses would justify the jury in bringing in a verdict against either Pat-rick Hester, Patrick Tully, or Peter Mc-Hugh, and that no independent testimony in this case does connect either Tully or McHugh with the killing of Rea.

ring the evening and night. The testimoring the evening and night. The testimoring is not to prove an alibi as to the time of the murder, but it is in fact an alibias to the alleged conspiracy. Does it prove to you by reliable testimony that Hester could not have been at Donohne's on the night of the conspiracy as stated by Kelly, and that Haster did not stay with the party at the saster did not stay with the party at the case is entirely overthrown, and there the case is entirely overthrown, and there is the case is entirely overthrown, and there is the case is entirely overthrown. the consideration of the jury. I decline to pronounced "guilty of murder in the first charge as requested on this point. y with the party at the sa-y with the party at the sa-Before so concluding you at the fact was so.

I have already submitted the evidence of 16th of October at Donohue's saloon to the jury with what I deem proper instructions, and decline to charge as requested on this

point.

Eighth, That Daniel Kelly stands before this jury as a man of most infamous char-acter—guilty on his own confession of the murder of Alexander W. Rea; of the rob bery on the highway of Mr Abel White obligation of an oath; shown to have contra-dicted himself in various material parts of his testimony in this case; contradicted In other portions by Michael Graham John Cannon, Garner Pepper, Con O'Gar-ragh, Mrs. Dooley, Mrs. Farley, Etten Hester, Patrick Fahev, Luke Richardson, John Britt, Dennis McLaughlin, Peter S. Luby, Thomas Casey and Francis Kiernan; and impeached in character for truth and ver-acity by more than twenty five persons, and as such is entirely unworthy of belief by

recited in this point and now I direct you to consider them, but I decline to charge as a matter of law that Daniel Kelly is un-worthy of belief. That is a question for the

jury.

Ninth That if the jury find from the evidence that Daniel Kelly has wilfully misrepresented any material facts in giving his testimony, then the rale of law is that if he will falsify in one thing he will falsify in all things, and the jury should disregard and reject all he has testified as unworthy of belief.

This is correct.

Tenth. That if the jury believe that Patrick Hester, Patrick Pully and Peter Me-Hugh, or either of them, were initiated in-to or belonged to a society known as the Ancient Order of Hibernians, or "Mollie Magnires," that not is of itself sufficient to enviet them of any offcase against the laws

of the country.

This is correct. Whatever may be the character of the "Modie Magnire" society when a member of it is accused of crime he is entitled to the humans presidention of law as to his innoceance. The bardless of proof is upon the commonwealth to establish the specific offense alleged in the indutation.

Eleventh: The the confirmation of Daniel Kelly an accomplise, on improved in 1915.

perjudices of the jurors, and to procure a verdict contrary to the evidence.

"Paratick Hester,

PATRICK TULLY, "PETER MCHUGH."

THE VERDICY.

Judge Elwell ended his charge at one o'clock, and Court adjourned to await the ectsion of the twelve men who held in their rands the fate of the three prisoners. At a little past three o'clock the folling of the a verdict had been reached, and then ensued francically to the court room to hear the verdiet. No one doubted what it was-the short time that the jury had been in consul-

finding than that of "guilty." The excitement in the court room was in tense-every eve was bent on the prisoners until the jury appeared, when they in turn became the objects of the most anxious and connect Patrick Hester, Patrick Tully, or excited scrutiny. McHugh was the only Peter McHugh, the defendants, or any or one of the prisoners who showed signs of either of there with the killing of Rea, exence to abstain from any demonstrations, whatever the verdiet might be, and then the Clerk of the Court asked the momentous question, 'Gentlemen of the jury, in the ise of the Commonwealth against Patrick Hester, how do you find?" The solemn si Ience which ensued was broken by the voice of the foreman of the jury, "Guilty of mur der in the first degree." Mr. Elwell asked that the jury be polled, and each member answered "guilty," but before all had answered to their names Mrs. Hester fell fai iting from her chair. The long suspense and the bitter ending had proved too much for This is also a question for the jury. The her strength. The verdicts were taken and is for Tully and McHugh were in like manner

It was indeed a sad scene and one not ikely to be forgotten by those who witnessed t. The weeping wife and daughters of Hes. er and the grief stricken, gray haired wife of Tully appealed strongly to the sympathy of all, and many eyes were moist.

With but little delay the prisoners wer room was speedily vacated. It is said that when the jury took the first ballot it stood eleven for conviction and one for acquittal and that the second ballot showed twelve for conviction.

There has never before been a conviction or murder in the first degree since Bloomsburg has been the county seat.

SMOKE, Soot and Coal Gas, from defective drafts, prevented. No more worty with fires for cooking or neating. Send at any for circular to HERRY COLFO AN, 722 Sanson St., Pallad spina, Decre, 76-19.

NOTICE. Fishing reck, Feb. 15th, 1817, March 2-5w

PUBLIC SALE

Valuable Town Property! The undersigned will offer for sale of

THURSDAY, APRIL 5th, 1877 it two o'clock p. m., the lot of ground on Iron street Cayton, and on the west by Iron street; on which

of two stories and one and a half stories respe Terms easy and made known on day of sale