

three blows given, may well be doubted. This doubt should incline the mind to the conclusion most favorable to the prisoner, particularly in a capital case. That conclusion is that there was but one blow given. On this point we have thus given the opinion of the court, but it is a question of fact, and the jury will judge of it for themselves.

Were there any circumstances which extenuate this sudden act of destruction into *voluntary manslaughter*? To extenuate a homicide from murder to manslaughter both *provocation* and *passion* must exist. *Provocation* without *passion* will not extenuate the offence nor will *passion* without *provocation*. This provocation must be such as is deemed in law sufficient to deprive the party of deliberation. No words, however insulting, no trespass to lands or goods, are held sufficient; but assault upon the person, or blows, are deemed sufficient to excite the passions to such an extent as to deprive the mind, for the moment, of the power to deliberate. What was the provocation here? The prisoner, on his return from his day's employment, called at the tavern of Wm. Sproul, in company with his daughter, in the evening. Hearing the deceased making a loud noise in the bar-room, the father and daughter retired to the kitchen for the purpose of avoiding any contact with him, and the children fastened the kitchen door to prevent the intrusion of the deceased, who nevertheless came to the window and door demanding admittance, and, according to one witness, making threats and saying he would "be in dead or alive." He therefore forced open the door, bursting out the steeple which held it fast. The prisoner who was seated by the fire warming himself extended his hand to the deceased in a friendly manner asked him *how he did?* Without taking any notice of this courtesy, the deceased, without the slightest provocation, seized the prisoner by the hair, and, according to one witness, with one hand by the hair and with the other by the throat, drew him violently back over the chair. The daughter struck the deceased, in defence of father, and the prisoner immediately grabbed for something and seizing the axe which lay in the chimney corner, where it had been used in preparing kindling, suddenly gave the deceased the fatal blow upon the head which caused his death. Whether the circumstances which occurred before the fatal blow, were sufficient to deprive the mind of deliberation, is a question of law, and the court are of opinion that the provocation was sufficient to produce, in ordinary minds, such a degree of passion as to prevent deliberation. Whether this degree of passion was in fact produced is a question for the jury. If they should believe that it was, and that the act was done upon a sudden heat occasioned by the provocation received, and without deliberation, then the offence is extenuated from *murder in the first degree* to *voluntary manslaughter*. If the intention to kill existed, which we think may fairly be inferred from the deadly weapon used as well as the manner of using it, and the jury should be of opinion that the act was deliberately perpetrated, then the prisoner is, under the evidence in the case, guilty of *murder of the first degree*.

In conclusion; upon the whole evidence, the court are of opinion, that it is not a case of "voluntary manslaughter" because of a manifest intention to kill, as indicated by the use of a deadly weapon. That it is not a case of "murder in the second degree" for the same reason, the presence of an intention to kill. That it is not "murder of the first degree" because, although the act was "wilful" and "premeditated," yet it was not "deliberately" perpetrated, by reason of the passion produced by sufficient provocation from the deceased, depriving the prisoner, for the moment, of the power to deliberate. And that the prisoner is guilty of "voluntary manslaughter" by reason of the existence of an intention to kill, suddenly executed, without justification or excuse, in a passion, occasioned by provocation from the deceased.

We have felt it our duty in this case, to give our opinion of the facts and the law. The court are unanimous in the opinion delivered, yet the jury will bear in mind, what has been before said, that they are to be the judges of the law and the facts in a criminal case, and that it is peculiarly their province and their duty to decide for themselves all questions of fact which arise in the case. We have now discharged all the duties which the law of the country at present impose upon us. It is for you, gentlemen of the jury, to decide upon the guilt or innocence of the prisoner. His life is in your hands.

ELLIS LEWIS,
President Judge.

VARIOUS ITEMS OF NEWS.

SPEED THE PLOUGH.—In the Legislature of Massachusetts, the committee on agriculture have reported a bill to the House, to encourage the production of wheat in that Commonwealth. It grants a bounty of two dollars to every person who shall raise fifteen bushels of well cleaned wheat, and five cents a bushel for every bushel above fifteen bushels; and to the person who shall raise the greatest quantity of wheat on one farm, (not less than five hundred bushels) one hundred dollars. In Maine, and other eastern States, we believe they have a nearly similar enactment. The system of bounties seems to work much good; it encourages many to engage in agriculture, who otherwise, perhaps, would not. In such a vast country as ours, fast increasing in population, husbandry ought to be the principal occupation of at least two thirds of the male inhabitants. But if trade and commerce offer greater opportunities of acquiring wealth and property, a large number of people will direct their attention to them, and the result will be in a measure the same as that which has followed the abstraction of men from agriculture pursuits for the last two or three years, viz: pressure, overtrading, and provision at enormous prices. Bounties promote, too, the science of agriculture, lead farmers to inquire for the causes of certain effects, the nature of various soils, the properties of different manures, and the mode of producing the greatest quantity on the smallest space and at the cheapest rate.

BOUNTY ON BARLEY AND RYE.—In the Maine Legislature, last week, the Committee on Agriculture were directed to consider and report on the expediency of allowing a bounty on barley and rye, allowing one dollar for the first twenty bushels, and three cents for each additional bushel, not exceeding one hundred.

A CASE IMPORTANT TO MECHANICS.—In a case which was tried yesterday in the Common Pleas, Judge Ulshoeffer presiding it was decided to be law that a mechanic, employed by a person to make up material into articles, can retain possession of the whole until he is paid for his labour. The case was an action brought by Robert O'Riley, recover \$208. Of this sum, \$140 was not disputed by the defendants; and after it became due they employed the plaintiff to make up 22 coats, for which he was to receive \$68. Before returning the coats the plaintiff brought this action for the unpaid sums. The defendants demurred to paying for making the coats before they were returned to them, but the court stated the law to be in favor of the plaintiff, and the jury found accordingly.—*N. Y. Sun.*

British Statistics of Ardent Spirits.—From a Parliamentary document it appears that duty was paid on proof spirits as follows:

	England.	Ireland.	Scotland.
Population,	13,897,187	7,767,401	2,305,116
Gallons	12,331,238	12,293,465	6,767,715

From which it appears that the quantity of spirits consumed in England is seven pints and one ninth per head, on the population; in Scotland twenty-three pints per head, and in Ireland rather more than thirteen pints per head per annum.

These statistics are rather extraordinary; and are calculated to upset established notions respecting the superior temperance and sobriety of the Scotch. It appears from this that Sawney drinks nearly twice as much fiery poison as Paddy, and more than twice as much as Johnny Bull. What enormous quantities some of the Caledonian toppers must drink, when twenty-three pints are allowed in this statement for every man, woman and child in the country! Or do they all drink it?

The navy.—The following are the general items of the bill reported by Mr. Cambridge, from the ways and means:—

For pay, substance, repairs, &c, of the navy.	\$3,494,770
For improvements and repairs of navy yards,	360,500
For ordnance, &c.	518,000
For the marine corps.	311,474
For hospitals,	84,100
For the sea wall, Ellis's Island, and the magazine at Norfolk	4,550

Total, \$4,773,394

SMALL BILLS IN NEW YORK.

The New York Commercial says—"We have received a report of the bank commissioners, stating the amount of bills of the Banks of this state of a less denomination than five dollars yet in circulation. These amount to \$350,125, of which \$143,831 are ones, \$85,067 are twos, \$110,644 are threes, and \$1,583 are fours.

THE EXPLORING EXPEDITION.—It is said that Captain Grogory is to assume the command of the Exploring Squadron. It is likewise reported that the squadron is to consist of the sloops of war Vincennes and Peacock, the store ship Relief and the schooner Active. The frigate is not to go, and neither the two brigs nor the schr. Pioneer are to be attached on the expedition.

BANK COMMISSIONERS IN MASSACHUSETTS.—A bill establishing a Board of Bank Commissioners passed the Senate of Massachusetts on Wednesday last, with but one dissenting voice.

New-York, Jan. 29.

From the Frontier.—The latest news from Buffalo is to the 22d. The Islanders are still prowling about, seeking conveyance up the Lake. Scott has the steamers, N. England and Barcelona, in the service, armed and manned. On the 20th, Colonel Worth left Buffalo, in the Fulton, with 250 U. States recruits, having received orders from Scott to prevent any armed parties from landing in Canada.

Two days after, Major Young, with nearly 300 men, left Buffalo, in the New England, to assist the Fulton. A perfect understanding exists between Gen. Scott and Colonel Hughes, the British Commandant, in relation to the measures to be taken to keep the people on both sides quiet. It was supposed that the 'patriots' near Detroit dispersed.

CINCINNATI, JAN. 23.

The Grand Jury for the Court of Common Pleas for Hamilton county, at their sitting last week, found a bill against the Captain and Engineer of the Steamboat *Home*, for manslaughter, caused by the collapsing of the flue of that boat, a short time since, while at the city wharf.

The trial occupied the time of the Court all day yesterday, and was concluded in the evening. After the examination of a large number of witnesses, and a charge from the President Judge in favor of the accused, the subject was committed to the jury who returned a verdict of *not guilty*, without leaving the box.—*Whig.*

The Colonization cause is going on prosperously in Mississippi and Louisiana, notwithstanding the depressed condition of pecuniary matters. The Rev. Mr. Findley, general agent of the Society, writes from New Orleans that another vessel with emigrants will be despatched for Africa in March.

Capital Trial.—On last Tuesday a week came on in the Court of Oyer and Terminer of Lancaster county, the trial of Henry Smith—a molatto—for the murder of Benjamin Peart, a respectable farmer, who resided in the immediate vicinity of Columbia. On Wednesday last, the case was submitted to the jury, who retired about 3 o'clock in the afternoon, and about 6 o'clock came into court with a verdict of "Guilty of Murder in the First Degree."

COLUMBIA, Pa., Jan. 27r
RESUSCITATION.

The son of our respected townsman, Mr. John Arms, a lad about nine years of age, whilst playing along the wharves on the afternoon of Tuesday last, fell into the Susquehanna, and was carried along by the force of the current for a considerable distance before he was discovered by a person able to render assistance, and when seen & taken out was completely black in the face, and full, having the appearance "to all intents and purposes" of an individual who had been drowned. We learn, however that after he had been stripped of his outer garments, every effort was made to resuscitate the apparently inanimate body, by rolling it in warm blankets, rubbing it with brandy, &c. and that after having persevered in this measure for about half an hour, to the great relief of the distressed parents & the gratification of the many bystanders, evidences of returning vitality appeared.—In an hour from the time that the accident occurred, the child was completely restored.

The Cincinnati Republican says, that on Wednesday the 18th ult. Lower Market of that city was attended by upwards of three hundred country wagons with every variety of produce, and that it is fair to presume, that there were not less than one thousand people from the surrounding country who attended this cavalcade. An old bachelor resident remarked that he had never before seen so many rosy-cheeks Buckeye lasses.

The number of hogs slaughtered the present season at Cincinnati, is estimated at two hundred thousand, which exceed by forty thousand, the number during any previous year.

Flour at Dayton on 16th, was selling at \$5 and \$5 25. The canal was still open to Cincinnati.—*American Sentinel.*

THE SURVIVORS

The National Gazette says: "We lately stated that James Ross and Albert Gallatin were the only survivors of the sixty-three members of the State Convention of 1790. In this we were in error, as Jonathan Shoemaker a delegate from Montgomery county, was then living. This venerable man died on the 28th ult., in his eighty-fourth year, at the house of his son, Isaac Shoemaker, near Baltimore. He was a native of this State, and a member of the Society of Friends."—*Pennsylvania.*

A gang of counterfeiters have been broken up in Michigan. They had three depositaries, containing in all about twelve thousand dollars in spurious notes.

The resolutions in favor of the annexation of Texas to the Union, which we have heretofore noticed as having passed the lower house of the Legislature of Tennessee, have, we now learn, passed the Senate of that State unanimously.

Flour at Pittsburg on Wednesday last, \$5 and \$5 25.

THE COLUMBIA DEMOCRAT.

By Ingram & Mills.



"TRUTH WITHOUT FEAR"

BLOOMSBURG:

SATURDAY, FEBRUARY 10, 1838.

To Printers.

The Editors having issued proposals for the publication of a newspaper at another place, they now offer for sale the printing materials and subscription list of

"THE COLUMBIA DEMOCRAT."

To a young man with a limited capital this office offers considerable inducements, it having upwards of five hundred subscribers, and an advertising and job custom worth from 800 to 1000 per annum. The original cost of the establishment will be all that we shall require from the purchaser. Any inquiries by mail will be strictly attended to.

"The Columbia Democrat" is published at Bloomsburg, in the most central part of Columbia county, and acts with the dominant party both in political and sectional feelings.

Address, INGRAM & MILLS,
Bloomsburg, Feb. 10, 1838.

TO OUR CUSTOMERS.

Those indebted to this establishment for subscriptions, jobs, or advertisements, are requested to make immediate payment, as in a short time our books will be placed in the hands of a magistrate to enforce collection. Those who do not pay within the year will be charged \$2 50 in conformity with our terms of publication. We hope that all may see the necessity of complying with this notice, as we must pursue this course in order to comply with our payable engagements.

JOHN S. INGRAM,
FRANKLIN S. MILLS.

February 10, 1838.

We shall in a short time transmit our bills to delinquent customers, and from the necessity of the case, we hope none may delay in forwarding the amounts respectively due for subscription or advertisements. Those subscribers who do not pay within the year will be charged the EXTRA FIFTY CENTS, in accordance with our terms of publication. A speedy collection may be anticipated, for we shall place our books in the hands of a magistrate for that purpose, immediately after our labors shall close as Editors of this paper, which will be in a few weeks.

IMPORTANT PATENT.

Our readers are referred to the advertisement in another column of Charles and William Kahler, of this place. If genius, commendable industry and enterprise, and a desire to promote science and the common welfare of the public deserve patronage, then the public, and THE TRADE especially, will certainly do justice to the Messrs Kahlers, and of course they will reap the reward due their exertions, in adding to the scientific disclosures of a system of mechanism that must save much cloth, abolish all batching, and give renewed confidence to the operations of those upon whom we rely for our outward decorations and comforts.—We know the men—have seen the patent and its original plans; and really if mathematical deduction can fit the human frame with garments, they have a system which must defy competition, either in regard to its simplicity or its correctness.

We would invite public attention to the advertisement of HADEN SMITH, Esq. in another column of this number of our paper. Mr. Smith is professionally an Engineer, has been engaged upon the Catawissa Rail Road in that capacity, and ranks high in every branch to which he sets claim either as a surveyor or topographer.

We have received the third number of the "United States Magazine and Democratic Review," and we can only commend its contents as worthy the perusal of every one, and particularly of advantage to every member of the democratic party, who avows and supports the principles of Jeffersonian democracy. We always grasp at this periodical, whether we want political, literary, or scientific information, or whether in search of that general intelligence which any American would obtain from the most approved sources.

Albert G. Brodhead, Esq. has had his nomination in Luzerne confirmed by the conferees as Senatorial delegate from that district to the 5th of March convention.

Doct. Petrikin, of Congress, & Mr. Hayhurst, of the Reform convention, will please accept our thanks for their favors, in transmitting public documents.

Since our determination to leave Bloomsburg has been made known, we acknowledge the receipt of several complimentary communications, eulogizing the "Democrat"—its neat execution, its various and well selected contents, and its fearful espousal of correct principles. This comes very timely, gentlemen; it certainly merits our kindly feelings for your undeserved commendations; but notwithstanding your solicitations to remain, under the promise of increased exertions in our behalf, we must conform with our obligations—we must remove to Pottsville. There, however, we will not forget your amicable dispositions, nor your needed patronage while residents of Columbia County. We shall never forget our friends, and while conducting a paper in another county of this Senatorial district, we shall occasionally kindle the flame of friendship which may seem partially expiring in the distance, and convince our present patrons that though we leave them we shall ever feel grateful for their exertions in our behalf. But candor requires us to state the reason for issuing the proposals published in another column. We are neither John Jacob Astor, nor favored heirs of Stephen Girard. Our own mental and bodily exertions are our only dependence, and the long credit which most of you seem to require, although computing with our wishes, was discovered to be vitally injurious to our interests. This cause, above all others, instigated the determination to seek patronage in another quarter. We confess that you have patronized us well; but of the 579 papers issued from this office, the credits attached to respective names appear like angels visits "few and far between." But we shall cease grumbling. The mention of such facts sometimes mends the ways of the faulty; and as we may probably get a purchaser of this establishment, equally capable with ourselves to sustain its reputation, we can only wish him the present patronage, and a greater degree of liberal punctuality, so much needed in the commencement of a country periodical. We can only hope for ourselves that we may fare better with our contemplated establishment; if we do not we shall imagine that "the hand-writing on the wall" needs another Daniel to interpret its meaning, and better stuff than ourselves to sustain its oppressive operations. This will suffice for the present, as we intend writing a valedictory when we issue our 52d and concluding number.

THE LUMBERMAN'S BANK.

We noticed last week the excitement at Warren, and the appointment of a committee by a public meeting, to investigate the affairs of the institution. That committee, in connection with the officers of the bank, had not closed its operations on the 1st inst.; but so far as they have pursued this investigation, there are expositions of fraud and corruption that should forever close the doors of the Bank. The amount of specie in the vault is \$56 14, in copper coin—the amt. given in the report of its officers last Nov'r. was \$65,376 42. The cashier has resigned his office.

The committee, however, set down the assets at \$50,000 more than the liabilities, and in the "Warren Bulletin" of the 30th ult. one George J. Chapel, who probably has but few debtors, advertises that he will receive its notes in payment of debts due him. Upon the whole, we think the bank "a gone case," and we very much doubt whether the holders of its notes will receive much value, unless to redeem their own paper. The assets are doubtless made up of the valueless mortgages alluded to last week, & consequently are mere paper statements, without any foundation that will warrant a particle of confidence either in the report of the committee or the solvency of the institution.

The operations on the Catawissa Rail Road have been closed. It has been a sudden shock to numerous contractors, and thrown hundreds of workmen out of employment. This stoppage of the work will materially affect our neighborhood; and we can only hope for a change—a renewal of operations, at the next monthly estimate.

THE REFORM CONVENTION.

This body passed a resolution on the first instant, changing the time of adjournment from the 3d to the 22d instant. They had progressed to the second reading of the 4th section of the 9th article when last heard from, and in all probability will adjourn in accordance with their present resolution. We now have strong hopes.