

Judge Miller announced the decision of the court substantially as follows:

The discussion has been exceedingly able, and the court sees the importance of the question raised. But one witness has been brought, and her testimony has not been concluded. The State is bound to establish the fact of the murder of General Ketchum at Mrs. Wharton's house, and the State officers allege that they must make out their case by circumstantial proof. If it should be proved that there was an antecedent debt between the accused and General Ketchum, and that the note he held had not been found, it would be admissible for the State to establish it by competent proof.

The question before the court was collateral, and the court was of the opinion that the unsworn statement of General Ketchum was not admissible. When the documentary proof was offered a new phase of the case would come up, and the court would decide upon it.

Mrs. Chubb now resumed the witness stand, and Mr. Syester said the witness was in the hands of the defence. Mr. Steele proceeded to cross-examine her, as follows: The day was a warm summer day when General K. and I came from Washington; I did not dine before leaving Washington; I do not know that General Ketchum had dined; he told me he had not; we arrived between 6 and 7 o'clock; General Ketchum went into Mrs. Wharton's for a few minutes; then went out and returned in about three-quarters of an hour; we took supper that night; General Ketchum was at the table and ate very heartily; I cannot give the hour; about 9 o'clock I should judge, but I cannot tell the exact time; General Ketchum ate nothing but some bread and butter and some raspberries; I cannot say how much coffee or tea he drank; I did not observe; I cannot say whether or not biscuits were on the table; there was some bread; he did not eat very heartily of the raspberries; I remember helping him once, but do not know how often he was helped.

Mr. Steele—"Do you remember any reason assigned by General Ketchum for his eating so heartily?"

Mr. Syester objected, and after some discussion Judge Miller said the question might be asked.

Mrs. Chubb continued—He said he was hungry, as he hadn't eaten any dinner.

Mr. Syester—"A good reason."

The witness continued—General Ketchum mentioned on the cars that he had drank a great deal of ice water, but said nothing about it at Mrs. Wharton's.

The State objected, and the court ruled the answer inadmissible.

Mrs. Chubb continued—I met Gen. Ketchum at the cars in Washington, and he did not seem much fatigued; General Ketchum had nothing for supper that night except what we were partaking of together, as far as I know; I was not made ill by anything I ate; after supper General Ketchum stayed in the dining room a little while, and then went up to the third-story front room; I don't remember whether Mrs. Wharton was standing in the room or in the passage when we went up, she was standing somewhere near; I was with the General most of the time until he retired; I heard him lock his door; Gen. Ketchum went out on Sunday morning after breakfast for a few moments to see an old army friend; when he returned he did not say where he had been; I

did not return to Mrs. Wharton's until after tea in the evening; General K. then told me he felt better; I don't know what he took at tea that evening; there were two glasses of lemonade made; they were presented so that I would naturally take the one nearest to me; they were handed to both of us at once; I took one first, and the one nearest to me; I was not asked to take that one particularly, and I could have taken the other.

Cross-examined by Mr. Hagner—I brought from the apothecary's one vial and one package; I did not see the druggist prepare the medicine; I suppose creosote was in the vial, but I did not smell it; I cannot say how long General Ketchum was smoking; he was smoking part of the time, and part of the time he was talking; he was sitting in an arm chair; I think it was between half-past 10 and 11 o'clock that I parted with him, but I cannot be accurate; in the night I heard him go down stairs only once; I heard him return to his room; he was not down stairs very long; I cannot give any idea of the time at which he went down stairs; I was waked by the noise of his going down. The witness was now asked to describe Mrs. Wharton's house, and she said it was a back building house, with the front door on the side opening into a passage, on either side of which is a room; I can give no idea, said she, of the width of the passage, but it was a small passage, wide enough, however, for a table; one room on the first floor is the parlor and the other a dining room; a small door opens from the dining room into a passage leading into the kitchen; I occupied the back room, second story; some ladies were occupying Mrs. Wharton's room at the time; I was not present when Mrs. Wharton asked General K. to send for a physician; he said two ladies were "one too many for him," and he would consent to have a physician.

Mr. Steele—"Have you any knowledge of General Ketchum's coming down on Monday morning, with the intention of going to Washington that day?"

Mr. Syester warned the witness not to answer, and asked Mr. Steele to state his object in asking the question.

After some consultation among the counsel for the defence the question was not insisted upon, and the witness was allowed to leave the stand.

Mrs. Meta Hutton was next called, and testified—I live in Baltimore, and am the wife of N. H. Hutton; I have lived in Baltimore nineteen years; I was not at all acquainted with General Ketchum until I met him at Mrs. Wharton's on Saturday, the 24th of June, 1871, about 7 P. M.; I have known the accused about seven years; I opened the front door for General Ketchum, and Mrs. Wharton met him and asked him to walk up stairs; he was not accompanied by any one at that time; I had seen Mrs. Chubb before that time; I met Mrs. Chubb going into the gate of Mrs. Wharton's yard as I went there about 6 P. M.; Mrs. Chubb had been for medicine for my brother, Mr. Eugene Van Ness, when I met her; my brother was at that time ill in the house; Gen. Ketchum appeared very well; I was in his company only a minute as he passed in; I saw him at the tea table when I went in, General Ketchum asked me to sit down and take some tea, and I declined; he said then I was a poor, nervous creature; Mrs. Wharton gave me the cup of tea and I left the room; I was in the room possibly three or four minutes; Mrs. Wharton was pre-