

Attorney General say that they had no bias?

Mr. Steele then read from Roscoe's Criminal Evidence, page 139, and said he submitted that there was no possible reason, no plausible reason assigned by the State's officers, why the rules of evidence should be departed from.

The Chief Judge said the Court was of the opinion that the evidence proposed to be offered was not admissible, as it did not come within the rule of a witness testifying to a material fact upon cross-examination, which may be contradicted, but within the rule of cross-examination on a collateral matter, by the answer to which the cross-examining counsel must be content.

Mrs. Van Ness was then allowed to leave the stand.

Deputy Marshal Frey, of Baltimore, next testified—I had one conversation with Susan Jacobs.

Mr. Syester next asked—Was General Ketchum's condition the subject of that conversation?

Marshal Frey said he had had a conversation with Susan Jacobs about General Ketchum's condition, and continued—I asked her about General Ketchum's condition at the time he was in Mrs. Wharton's house, from Saturday afternoon to the hour of his death, on Wednesday.

Mr. Syester next asked the witness if Susan Jacobs had told him anything about having visited General Ketchum frequently, and what she had said.

Mr. Hagner objected, and after several references to the manuscript, and newspaper records of Susan Jacobs' testimony and some desultory discussion, the Chief Judge said there was no doubt about the rule of law, but the Court's recollection of the testimony was, that the State had laid a sufficient foundation for the question to be asked, but if the Court was not right it was willing that the witness, Susan Jacobs, should be recalled.

Judge Hammond said he had no recollection of the specific questions which were asked.

Judge Hayden said his recollection was that the Attorney General had asked a great many questions to which the answers did not appear in the reports which had been read; he could not recall the particular questions, but he was under the impression that a sufficient foundation had been laid for contradicting the witness.

Messrs. Hagner, Revell and Steele, explained their recollection of the cross-examination, and the Court said that it was willing that the witness should be recalled.

Mr. Steele said the counsel for the defence had given their understanding, and would of course submit to the decision of the Court without questioning it.

Marshal Frey continued—She told me in the presence of Marshal Grey, who assisted in the investigation, that she had seldom visited General Ketchum during his sickness; I asked her who prepared his meals.

Objection was made by the defence, and the Court said the witness, Susan Jacobs, was in Court, and she must be called to testify on the controverted points.

Mr. Steele offered some objection, as the case of the defence had been closed, and the Chief Judge said it had been repeatedly done in this Court.

Mr. Hagner desired to know if she was to be asked new questions, or was she to be asked only questions bearing upon what she had testified.

Mr. Syester said he would waive the question for a time, and put another witness on the stand, that he might in the meantime refer to his notes, which he had left at his hotel. If his notes did not bear him out in his recollection, he would withdraw the question.

Marshal Frey was then allowed to leave the stand.

Prof. Wm. E. Aikin was next recalled. Mr. Syester said Prof. Aikin had some vials in a basket, which he desired to bring into Court, and the venerable Professor was allowed to retire to secure the desired trophies.

The Court, jury, counsel and spectators were kept a few moments on the tip-toe of expectation, but Prof. Aikin finally reappeared bearing a basket. He took the witness stand, and in answer to Mr. Syester, said, I heard Professor McCulloch's testimony in part and read it.

Mr. Syester then said to Professor Aikin—You have heard the testimony of McCulloch, in which he stated that he had conducted an analysis on chloral and yellow jessamine, and had employed in that analysis the same tests and reagents employed by you in your analysis of Gen. K's stomach, and obtained results which a chemist might mistake; we desire to know whether, since then, you have experimented on these substances in the same way and obtained any results resembling yours or calculated to mislead a chemist.

Mr. Hagner quickly objected, and said Prof. Aikin had sworn that only antimony could have given him his results, and contended that would it be reopening the matter upon which he had given his testimony at great length. He earnestly asked that the Court would rule it out.

Mr. Steele read from the official report of Professor Aikin's testimony that he had declared that the results were characteristic of antimony, and could not have been given by anything else. The State had now no object but to cumulate evidence, and Dr. Craig had already said that he was satisfied with two of the tests Professor Aikin had employed. The State could not, he said, under the guise of cross-examination, introduce new proof to sustain their theory that antimony alone could have given Professor Aikin his results. Mr. Steele further argued the question earnestly.

Mr. Revell said the question propounded by the Attorney General was in strict rebuttal. Prof. Aikin had only negated the idea that any substance known to him would, under the same circumstances, give the same results. Prof. McCulloch had said his results had opened a new field of investigation, and was it possible that the State was not to be allowed to show the inaccuracies of this science, so abstruse, so deep, so hidden, and so uncertain? He submitted that it was in strict rebuttal.