

## SELECTIONS.

where testimony of this sort can properly be introduced. It is said that good character will of itself sometimes create a doubt where none could exist without it.

There is another class of cases where there is an apparent exception to the rule of relevancy; and in these, evidence has been received of facts before and after the principal transaction, and which have no ostensible connection with in. The reasons seem to be that the guilty knowledge or intent is material. Evidence of other crimes which are in no way connected with the one in issue is excluded, but where the crime charged is so linked with another, that in proving the one it would prove the other also, the rule does not apply.

For instance, where one was accused of larceny, evidence which shows his whereabouts at the time of the larceny is admissible, although it proves another larceny. In order that the prosecution may introduce evidence of other crimes than that charged, they must in some way be connected with the principal case. Such evidence may be admitted, when it becomes necessary to prove *scienter*, to prove such intent, to show a motive for the commission of the offence; when the two crimes form one transaction and are connected; and where the offence is one of a series, and to make out the offence charged others must also be proven.

Testimony otherwise competent is not rendered incompetent by reason of its proving an offence other than the one charged in the indictment. So, also, evidence of other receipts of stolen goods from the same thief, knowing them to be stolen, are admissible on the question of intent under an indictment for receiving stolen goods, although it proves the violation of another law. In *Shaffner v. State*, the Court only went so far as to say that it was necessary to identify the action with the offence, by making it appear that he who committed one act must have done the other also.

Evidence is always admissible to prove a motive for doing an act, if the act is in issue on the evidence, tends to prove a fact in issue; or to prove whether an act was accidental or intentional, to show that it was one of a series of similar occurrences, in each of which the person doing the act was concerned.

Where the question is one of self-de-

fence, the custom of deceased in carrying dangerous weapons, and his reputation for violence are, if known to defendant, facts relevant to the issue. And also if there is a dispute as to who first began an encounter, evidence of threats made by either party against the other, although unknown to the threatened party, are relevant. Whenever it becomes necessary to prove adultery, evidence may be given of other adulterous acts before and after the act charged to show the adulterous disposition. So, also, in cases of alleged rape, bastardy or indecent assault, the character of plaintiff for chastity is relevant. But it has been held that evidence of particular acts of unchastity is not admissible; it may only be extended to general reputation.

*Civil Cases.*—In civil cases, the question being whether one did or did not do a certain thing, the fact that the actor is of a particular character is not in general admissible. Such evidence is only admitted when the nature of the action involves the general character of the party, or goes directly to affect it. For instance, the social standing of the parties is clearly irrelevant on the trial of a breach of contract.

In the trial of civil causes, there are one or two notable exceptions to the rule requiring the evidence to be confined to the matter in dispute, or what at least appears to be an exception. Thus, in matters of science, experts may be called to testify to their opinions not within the knowledge of ordinary witnesses; and the result of experiments based upon facts similar to those in dispute. These rules are well recognized.

The cases are not in harmony upon the point as to whether in an action for libel or slander the character of the plaintiff may be inquired into. The weight of authority is that such evidence may correctly be admitted. And in an action for breach of promise of marriage the rule is the same. Where the mental state of a person is material, evidence of acts similar to the one which is the subject of the action may be admitted if it shows the state of mind of such person. This rule is usually applied to fraudulent transactions. Evidence of other acts of a similar nature are admitted to show the fraudulent intent. Evidence of collateral facts is sometimes admitted, even when not strictly bearing