

this moment and somewhere else the next, but there should be continuity throughout the whole of his cross-examination. And that leads to the Second rule, which is, Never let the witness get away with you. You will see a witness who is being well cross-examined, but the witness whether through craft or unintentionally leads off into some other branch, and counsel follows him into that branch, and the counsel's work to the extent to which he had got before he was led away is practically nullified. If he had not permitted himself to be led away, if he had kept his witness to the point, if he had not allowed the witness to get the mastery of him and take him into some side issue, the chances are he would have done good work, but the moment the break is made, the moment the man gets the whip hand, and takes you away into a side issue your continuity is broken, your concentration is weakened, and the opportunity is gone that you perhaps have been striving to attain for half an hour with that particular witness. Then the Third cardinal rule that I should say should be crystallized is, Don't begin to cross-examine upon any point unless you have a good ground for gaining that point, and stop absolutely short when you gain it. Let me illustrate what I mean by that: A witness is called, and he is asked if he said a certain thing upon a certain occasion. In many, many cases the answer of the witness is. "No, I don't remember that I did." He asks again, "Well, think it over, didn't you say so and so?" "I don't remember. I don't remember anything about it." Counsel goes about three questions further, and the man says, "No, I never said it." Now, that is a thing that happens in almost every trial. If counsel had been satisfied to take the want of memory, whilst it may have been against the contention of the counsel, it may have been against his side of the case, it is infinitely better for counsel that a witness should not remember than that he should remember and swear point blank that he never said such a thing.

The Fourth rule is important as regards policy. It is one I have given a good deal of thought to, because one does not like to announce principles without consideration—I can only say I