And certainly the admission of irrelavent testimony on a collateral matter will not justify the granting of a new trial, if the fact sought to be proved was not controverted: *Crosby* v. *Fitch*, 31 Am. Dec., 745.

In a criminal case the court says: The range of cross-examination, and extent to which such questions should be allowed, depend upon the appearance and conduct of the witness, and all the circumstances of the case, and necessarily must be regulated by a sound judicial discretion. It is only where there has been an abuse of this exercise of the discretion by the court, resulting to the prejudice of the party complaining, that error will lie": *State* v. *Pfefferle*, 9 Crim. Law Mag, 222, 36 Kans., 90. See, also, *State* v. *Bacon*, 13 Or., 143.

The case of *State* v. *Miller*, cited and relied upon by the court in the *Olds* case, is not authority for the rules there laid down. In the Miller case two questions were submitted to the court for decision, as follows: First, Did the Trial Court err in permitting the letter written by Miller at the police station, and at the request of the officers there, after he was arrested, to be admitted in evidence and given to the jury? Second, Did said court err in admitting testimony to show that the defendant had been guilty of forgery and larceny? 3 N. W. Rep., 31, 47 Wis., 530.

Each of these questions was answered in the affirmative; but there was no question raised or passed upon relating to the cross-examination of a witness upon collateral matter, or to what extent such cross-examination might be permitted.

The case of *State* v. *Lapage*, 57 N.H., 245, 24 Am. Dec., 69, is not in point. It simply decides that, when the defendant was on trial for murder and the prosecution attempted to show that the murder was committed in an attempt to commit rape, evidence that the prisoner had committed rape upon another person was incompetent. This is a well-considered case, but it does not touch upon the cross-examination of a witness to show prejudice against the party against whom he testifies, or interest in the party calling him, for the purpose of affecting his testimony, or the weight to be given thereto.

The case of *Com.* v. *Campbell*, 7 Allen, 545, 83 Am. Dec., 705, also cited in the Olds case, holds that a party cannot be proved guilty of one offence by evidence that, at a different time and place, he was guilty of committing a similar offence, and is not in point.

In *Farrer* v. *State* it is held that "on an indictment charging the prisoner with poisoning A in December, 1851, it is error to permit evidence in chief to show that she poisoned B in the month of August previous": 2 Ohio St., 54.

It is therefore apparent that four of the cases cited by this court do not sustain its contention, or, in other words, are not authority for the doctrine there laid down. The other cases cited I have not at present before me.

In the Olds case, Strahan, J., speaking for the majority of the court, says: "For what purpose was such evidence offered? Manifestly for the purpose of arousing a prejudice in the minds of the jury against the prisoner, and of exciting a feeling of hostility against him, growing out of the fact that lawless and immoral people were actively interesting themselves in his defense. Of course, we