

incidentally applied: *Campbell v. State*, 8 Tex. App., 84; *Watson v. Com.*, 95 Pa. St., 418; *Cesure v. State*, 1 Tex. App., 19; *Pinckford v. State*, 13 Tex. App., 468; *State v. Lapage*, 57 N. H., 245; *Farrar v. State*, 2 Ohio St., 54; *State v. Miller*, 47 Wis., 530, 3 N. W. Rep., 31; *Com. v. Campbell*, 7 Allen, 541; *Hall v. State*, 51 Ala., 9; *Brock v. State*, 26 Ala., 104; *Rogers v. State*, 62 Ala., 170. And it is equally well settled that this rule excludes all evidence of collateral facts, or those which are incapable of affording any reasonable presumption or inference as to the principal fact or matter in dispute."

But a strict enforcement of this rule would exclude all evidence of collateral facts, and such as had not a direct or indirect tendency to prove the matter in dispute. Evidence of this character, however, is not admitted for the purpose of proving or disproving the fact in dispute, but for the sole purpose of affecting the credibility of the witness, and the weight to be given by the jury to his evidence; and while it is undoubtedly true that the general rule is that the cross-examination will be confined to matters and things about which the witness testified on his examination in chief, yet "where a party is a witness, or an unwilling witness is under examination, the Trial Court may, in its discretion, allow the cross-examination to take a wider range, which will be reviewed only for abuse": *Hanchett v. Kimbark*, 7 N. E. Rep., 491, 118, Ill., 121; see, also, *Lawson v. Henderson*, 14 Pac. Rep., 164.

And in *Stevens v. State*, 3 Tex. L. J., 139, it is said: "Cross-examination should ordinarily be restricted with respect to the interest, motives and prejudices of a witness, his means of knowledge, his powers of discernment, memory, and the like." The extent to which a cross-examination, relating to collateral matters, may be carried, is within the discretion of the presiding judge: *State v. Rollins*, 1 East. Rep., 584.

Judge Thompson, in his excellent work on "Trials," quotes from *Watson v. Twombly*, 60 N. H., 491, 493, as follows: "How far justice requires a tribunal to go from the issue for the trial of collateral questions; how much time should be spent in the trial of such questions; what evidence may be excluded for its remoteness of time and place; and what evidence is otherwise too trivial to justify a prolongation of the trial—are often questions of fact to be determined at the trial." And he then adds: "It follows, where this rule prevails, that the decision of the judge, in the exercise of this discretion, is not subject to review, except in cases of manifest injustice or abuse": 1 Thompson on Trials, Sec. 464.

Another question that arises is this: Should a judgment be reversed, a new trial awarded, and great additional expense thereby incurred unless there is at least reasonable ground to believe that the result of the new trial will be other than that of the former; or that the evidence admitted over objection was weighed by the jury and affected their verdict?

"It is well settled that a new trial will not be awarded because illegal testimony was admitted, if wholly irrespective of that testimony, there was plainly and obviously sufficient evidence to justify the finding": *Stephen v. Crawford*, 44 Am. Dec., 683.