

Worrell. Sergeant Clark says the duty of a sentinel is regulated by his orders, and that he will always permit one of his own regiment to pass, if satisfied of his honesty of purpose. Worrell well knew that he ran no risk in attempting to pass Messick.

In following the line of argument pursued by the counsel, we are next brought to inquire if the depositions filed in behalf of the accused furnish any reliable material for this defense.

There is no species of testimony so unsatisfactory as that of depositions; more particularly if taken, as in this case, without a cross-examination. The jury have not the benefit of seeing the witness, and noticing his manner of testifying, which are almost indispensable in determining the amount of credibility to be given to his statements. It will also be seen by an examination of these depositions that most of the questions are leading, and so framed as to admit of a negative or affirmative answer; but the State has interposed no objection to them, preferring that they should go to you for what they are worth.

The first deposition is that of H. T. Clark, who testifies that the prisoner was sick in July, 1853, and in December, 1855; that on both occasions he was out of his mind—on the last occasion a physician was called in, who prescribed for him. Mr. Clark does not inform us what the character of his sickness was, and the defendant has not thought it advisable to procure the deposition of the attending physician. The attack of 1855 is to some extent explained by other testimony in the case, to which I shall advert hereafter. In this climate fevers are very prevalent, and are almost invariably attended with a temporary derangement of mind. I have myself upon several occasions been so affected, and I suppose it is the case with two-thirds of this audience. The testimony of Mr. Clark for this reason cuts no figure in the case.

The next deposition is that of H. Miles Moore, who states that the prisoner came to his office in Weston, Platte County, Mo., in 1853, three years before the homicide, and requested deponent to make an application in his behalf to the Secre-