

Q. Didn't you say he always gave you that signal? A. Nos sir, I didn't say he always gave me that signal.

Q. Gave it to you Thanksgiving? A. Yes sir.

Q. And repeated it to you that day again? A. Yes sir.

The witness Conley was examined by the solicitor, who brought out the direct questions and answers Supra, and was then cross-questioned by the defendant, when counsel brought out the cross-questions and answers Supra.

Thereafter, and while the witness Conley was still on the stand. Defendant's counsel moved to rule out, exclude, and withdraw from the jury each and all of the said questions and answers, upon the grounds stated at the time said motion was made that said questions and answers were irrelevant, immaterial, prejudicial, and dealt with other matters and things irrelevant and disconnected with the issues in the case.

The Court denied this motion in writing, making in so doing the following order:

" When the witness Conley was still on the stand his testimony not having been finished, the defendant, by his attorneys, moved to rule out, withdraw and exclude from the jury each and all the above questions and answers, because the same are irrelevant, immaterial, prejudicial, and deals with other matters and things irrelevant and disconnected with the issues of this case. After hearing argument of counsel, the Court overruled the motion to rule out, withdraw or exclude said above stated question and answers from the jury, but permitted the same to remain before the jury.

In making said order and declining to rule out, exclude and withdraw said questions, and each of them as well as all of the answers and each of them, the Court erred, for the reason that said questions and answers, each and all of them were irrelevant immaterial, illegal, prejudicial, and dealt with other matters and things wholly disconnected with the issues on trial, and the same amounted to accusing the defendant of other and independent crimes. Defendant contends that this ruling of the Court was highly prejudicial to the defendant, tending to disgrace him before the jury and expose him to a conviction, not because