

Dr. Westmoreland who had once been president of the State Board of Health and Dr. Harris, who had been and was its Secretary. This row between the doctors stated is utterly immaterial and irrelevant and was harmful to the defendant because it tended to discredit the testimony of Dr. Westmoreland who resigned from the Board and to sustain the testimony of Dr. Harris, who remained as Secretary of the Board after Dr. Westmoreland's resignation.

49. Because the court permitted the witness E. H. Pickett to testify over the objection made when the testimony was offered that it was wholly and entirely irrelevant, immaterial, incompetent, illegal, dealt with transactions between other parties, threw no light on the issues involved and did not bind the defendant, to testify:

"Minola McKnight at first denied that she had been warned by Mrs. Selig when she left to go to the solicitor's office on May 3rd not to talk about the case, that when asked she stated that she was on that date instructed not to talk. At first, Minola stated that her wages had not been changed by the Seligs, that she was receiving the same wages as before the crime. At first she said her wages hadn't been changed and then she said her wages had been raised, just what I can't remember because it varied from one week to another; she said the Selig family had raised her wages. The only statement she made about Mrs. Frank giving her a hat was when she made the affidavit, we didn't know anything about that hat before."

The Court permitted this testimony to go to the jury over the objections above stated and therein erred. The Court stated that he admitted this testimony on the idea that the ground of impeachment for Minola McKnight had been laid.

This testimony was prejudicial to the defendant, because the Court in admitting it, left the jury to consider the statements of Minola McKnight, that Mrs. Selig had instructed her not to talk, that the Seligs since the crime had raised her wages; that Mrs. Frank had given her a hat.

50. Because the Court permitted the witness J. H. Hendricks to testify, at the instance of the solicitor and over the objection of the defendant, that the same was irrelevant, incompetent and immaterial, that:

"I am a motorman for the Georgia Railway & Power Company, running on April 26, 1913, on Marietta to Stock Yards and Decatur Street car. The Cooper and English Ave. run is on the same route from Broad and Marietta Street to Jones Ave. Prior to April 26, 1913, the English Ave. car with Mathes and Hollis on it did run to Broad and Marietta Streets ahead of time; how much ahead I can not say positively. About April 26th and subsequent thereto Mathes and Hollis, in charge of the English Ave. car, about twelve o'clock when they were due to get off at dinner did come in ahead of time. I have seen them two or three times ahead of time. At the time they were relieved, I got to Broad and Marietta streets about 12:06. When I would get there on schedule time, I don't know where Mathes and Hollis were, they should have been coming in. When Hollis would be at the corner of Broad and Marietta streets, and his car would not be there and my car would be on time, Hollis would leave Broad and Marietta street for dinner on my car."