

When the defendant and his lawyer went out, the defendant commenced to scold the solicitor, and said: "I thought you told me you could win this case." "Yes," the solicitor answered, "but you didn't furnish me with the testimony." The client replied: "Why, I was all over London and saw about sixty experts, but these we called were the only fellows I could get who would say my machine was not an infringement." (Laughter.)

So, you see, gentlemen, the difficulty is in the system. The man who calls the expert first finds out in advance what the expert's opinion is, and if it is in his favor he will put him in the box. He pays him usually a liberal fee. If it is unfavorable he passes on to interview another doctor with more enlightened views.

Now, what is the mental attitude of a medical man, a stranger to the quarrel between the litigants, called upon by a man who apparently has a good cause? The visitor reports that he has found other medical witnesses who will support his contentions in the cause. Is there not a natural tendency or bias on the part of such a witness employed in such a way to hope that the man who employed him (I was going to say hires him) may win his case?

If that be the case, what is the tendency of such a system? In the first place I maintain (in agreement with several writers whom I have consulted) that such a method of employing your witness tends to corrupt the witness. Bear in mind I do not mean by that, in a strict sense, that a deliberate intent is formed in the mind of the witness to be dishonest, but he is employed by the litigant to do the best he can for him, and this knowledge has its weight with the witness so retained. If the medical witness starts his investigation into facts, it is very curious, but it is sad, he begins with the lively hope that the facts may support favorable inferences. Is it any wonder that he should seize with a good deal of eagerness upon facts which have such tendency, and look rather coldly and with a critical eye upon any facts which point the other way. In thinking it out he is apt to be much impressed with facts which tell in favor of the view of his client, and very critical as to facts which point the other way. Is it difficult to imagine that he should finally reach a conclusion in harmony with the spirit that has controlled the investigation, and, as another writer puts it, in consonance with his client's desire?

Now this sort of influence, I do not mean to say is open and palpable. It is an insidious influence. Can we suggest no method of getting rid of it?

That question is not a new one. It has been discussed in books by lawyers and eminent doctors, many of the latter being oppressed with the contumely which has been cast upon them as expert witnesses, and they have frequently expressed the opinion that a man has got to be mentally very honest who can resist the working out of a result induced by the method under which the evidence is obtained.