

# The Canadian Engineer

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## The Canadian Engineer

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## THE ENGINEER AS AN EXPERT WITNESS.

An engineer frequently finds himself called upon to give expert evidence in the courts. His position as expert witness should prevent him from becoming an advocate of either the plaintiff or the defendant. No matter who retains him, he should consider himself, in the witness-box, a servant of the judge and jury; he should do all he can to combat the impression that he has allowed a desire for his side to win, to warp his conscience. The first duty of the expert witness should be to place himself in a correct position with the court. His knowledge of technical matters, his ability to fence in cross-examination, his clear explanations will have little weight if his testimony makes it apparent that he is really an advocate of his own side. In the most sensational and bitterly contested cases in Canadian courts, where the dispute turned almost entirely on expert evidence, it has frequently occurred that the three experts for the plaintiff contradict and are flatly contradicted by the three experts for the defendant. This kind of expert evidence has made our judges disgusted with the expert.

It is the duty of the counsellor to handle the case. It is not the duty of the expert witness to act as advocate. The expert witness should give prompt and clear answers, even if they appear to damage his client's case. It is the duty of the attorney to explain it in a way or get around it if he considers the answer weakens his case.

The first duty of the expert witness should be to clearly understand the main facts of the case, and, having formulated his opinions, to communicate to his client. If he is unable to support a particular view, he should say so.

In giving his evidence he should not presume that the solicitor is without some scientific and technical knowledge. The legal gentlemen employed on such cases have usually a good store of such information, and if they are ignorant on any point are not shy about confessing it. In giving evidence, models and drawings frequently make it easier for both judge and jury to grasp the main points of the case. Long, rambling answers do more harm than good, and, if admissions are necessary, let them be candid, without any attempt to fence.

As a general rule, witnesses are not expected to read their documents, but when the array of facts and figures is large it is absolutely impossible for him to carry them in his head. He should commit them to