

A person is feloniously wounded and is told he is dying and that he has no chance of recovery. But his wounds have become septic and his blood is saturated with poison. His mind is wandering. He cannot fix his thoughts on any given subject. He cannot form a proper conception of what death means. If asked how he feels is quite likely to say "first rate," and in the next breath "I know I am dying," and, then again, "I will soon be all right." We have heard dying septic patients talk on in this strain indefinitely. Their minds are quite incoherent and do not realize their serious condition. An ante-mortem statement made by such persons in answer to leading questions is worthless. They will answer much as they are asked.

Again, extreme exhaustion will reduce the mind to a shadow. The person cannot reason, cannot associate his ideas, cannot remember, cannot formulate deductions and express them. All this arises from exhaustion, as lack of food or loss of blood. An ante-mortem statement made by such should have no weight. They are passive subjects of the suggestions made to them by those who may be taking the statements. They do not, and cannot, appreciate the distinction between right and wrong, and do not know that their statements are to have a legal bearing on the trial of other persons, or that their statements may do grievous wrong to others. All this is as foreign to their minds as the story of Marathon to the child a few days old.

But the most pronounced type of case is that of a woman who is dying of sepsis and peritonitis after a criminal operation. Long worry of mind, loss of strength from sickness and pain, and marked derangement of mind from toxæmia, render her as unfit to make a reliable ante-mortem statement, as would the person dying with pneumonia and in the low muttering delirium of the last hours of life. It is a travesty on all attempts at justice to admit such statements. Further, they were not subject to cross-examination. Certain questions are put and certain answers obtained; but, if some one else were to ask other questions, he would, ninety-nine times out of the hundred, secure contradictory answers.

This is what happens with the witness in court. He is subjected to cross-examination. In the case of the ante-mortem statements there is no cross-examination. This cross-examination would undoubtedly modify these statements. If courts will use these dying statements, they should be taken with proper precautions so as to safeguard the rights of all, and avoid the danger of a delirious person making statements that may take away the life or liberty of some person; and, yet, the testator not have the faintest idea of the importance of the statements.

Dying statements have often been shown to be wrong, because the