with their mystifying influences upon judge and jury and their tendency to protect crime. Now that they are in, what is to be the end? Even with no "ptomaine theory" possible, the ptomaine form of argument is not unknown. The writer was once asked in an arsenic case, whether he was willing to swear that at some future time an element would not be discovered giving the stated reactions now called arsenical. Such nonsense is, of course, instituted to impress the jury, and is suggested by similar questioning in the alkaloid cases.

A recent and somewhat amusing instance arose from an attempt to introduce the rather new conception of "degeneracy" into a murder trial. The defense sought to show that the prisoner was a "degenerate" and offered expert testimony as to the meaning of the term and as to the signs whereby such a condition was to be recognized; whereupon the prosecution called attention to the fact that the defendant's experts themselves exhibited every one of the signs in question.

The expert witness should be absolutely truthful, of course; that is assumed, but beyond that he should be clear and terse in his statements, homely and apt in his illustrations, incapable of being led beyond the field in which he is truly an expert, and as fearless of legitimate ignorance as he is fearful of illegitimate knowledge.

Mounting the witness-stand with these principles as his guide, he may be assured of stepping down again at the close of his testimony with credit to himself and to the profession he has chosen.

Lawyer—"I am afraid I can't do much for you. They seem to have conclusive evidence that you committed the burglary."

Client—"Can't you object to the evidence as immaterial and irrelevant?"—*Tid Bits.*

NOTES OF CASES, ONTARIO.

WINCHESTER, M. C.] [SEPT. 11.

TORONTO TYPE FOUNDRY v. TUCKETT.

Practice—Want of Prosecution.

Plaintiffs had omitted to set action down within six weeks after close of pleadings. Held, that before defendant is entitled to an order of dismissal under Rule 434 the plaintiffs must not only have made default in setting down action for trial within six weeks from close of pleadings, but they must also have made default in proceeding to trial, as provided by Rule 542. Motion dismissed. Costs to plaintiffs in cause.

H. Cassels for defendants.

C. W. Kerr for plaintiffs.

* * *

MEREDITH, C. J.] [SEPT. 13.

RE JONES v. JULIAN.

Division Court—Jury.

Motion for prohibition to the Third Division Court in the County of Essex, on the ground that the defendant was deprived by the inferior Court of his right to a trial by jury of all the questions arising in the action, and of his right to a general verdict at the hands of the jury. It did not appear that the course taken was objected to at the trial. The learned judge left certain questions to the jury, and entered a verdict upon their answers. Defendant contended that all the questions arising were not left to the jury, and even if they had been the judge had no power to enter a verdict upon findings, which was usurping the functions of the jury.

Held, that all the facts really in dispute were submitted to the jury, and, having been found in favor of plaintiff, the judge had the power to enter the verdict upon the answers to questions submitted without objection, and that by section 304 of