

ration to be a marked exception, as it is admissible against a defendant in a criminal complaint, and not against a party in a civil litigation.

A person injured in a railroad accident or other disaster, and conscious of immediate dissolution, is surely under as great a solemnity of ultimate responsibility as any one, and his expressions thus made should be allowed as evidence in subsequent litigation, though of a civil nature. True, it may be said that even there he might wilfully lie, with a purpose of fixing the blame upon some one else, and with the expectation of enabling his dependants thus to obtain compensation through the courts, but the same reasoning should exclude, from a criminal trial, the declaration made by the victim of the assassin, because, while indeed it may not have been made with a purpose of aiding the dependants to recover pecuniary compensation, it still may have been made under motives even more powerful, namely, hatred or revenge. "Revenge is sweet" may be in the mind of the declarant.

"Heaven hath no hate like love to anger turned,
And Hell no fury like a woman scorned."

Under these circumstances, the oath in the court room has frequently been violated, and no doubt the awful moment, at the brink of eternity, has frequently failed to force absolute truth upon the lips.

But in whatever way, and for whatever purpose, dying declarations be used, there should properly be a modification of the conditions under which they are accepted.

As noted above, the declarant must be essentially without hope, or, as some say, without the slightest hope, of recovery when uttering the declaration. In the majority of instances, quite naturally, and even necessarily, the physician is a witness and probably the sole witness to the dying declaration.

The first duty of the physician is to encourage the patient. Even laymen know that words of cheer (though the speaker himself lack confidence in them) are better than words of discouragement. Patients often rally from the most critical condition when brightened up and aided by strengthening words of the physician or friends, and again, patients often in a fair way of recovery have been thrown into despair and death by the doleful utterances of those surrounding them.

It is, therefore, quite difficult and strangely inconsistent for the medical man, upon the one hand, to exert himself by way of stimulating, encouraging and strengthening the patient with cheerful words provocative of hope of recovery, and at the same time, for the purposes of the law, to treasure up the assertions of one