

counsel for the defence originated in the manly desire in our race that no injustice should be done to a man ignorant of the law. At the present day it is not considered at all dishonorable for most eminent counsel to espouse the cause of a prisoner whom they know to be guilty; and by carefully concealing evidence of the existence of which they are perfectly aware; by confusing and embarrassing witnesses; by taking advantage of every legal technicality; by the weight of their erudition and personal character; and by their persuasive eloquence with the jury they frequently succeed in making the worse the better cause appear. Their position is far different from the witness on the stand, who is supposed to tell the truth, the whole truth and nothing but the truth. All this procedure may or may not be in strict accordance with the highest code of morals—may or may not, in the long run, be productive of the greatest good to the greatest number. It is certain that we as medical men have no more interest in it than any other body of reputable citizens.

But in a majority of criminal cases questions arise which no layman can answer—questions about which even members of our profession may differ in opinion; the lawyers on both sides take counsel with the doctors, and the physician is called to the stand to express a professional opinion becomes known as a medical expert.

There are other classes of cases, it is true, in which expert evidence becomes necessary, as in determining the strength of material used in constructing a bridge, a ship, or a piece of machinery. But every science is exact just in proportion as mathematics can be applied in working out or demonstrating its results; and, unfortunately for us, with the single exception of errors of refraction, mathematics does not come to our assistance in any degree worth mentioning. The capacity of a piece of Bessemer steel to resist a strain, longitudinal, lateral, or by torsion, is known with perfect accuracy within certain pretty narrow limits; it can be accurately expressed in figures; and it is not possible for truthful experts to make statements concerning it greatly

at variance with each other. But the phenomena with which we are called upon to deal are of an entirely different order; can rarely become the subject of experiment; are extremely complex in their nature—so complex that to isolate the component elements and prove how much influence is to be ascribed to each, is up to the present time, simply impossible; it remains a matter of judgment and opinion. Nor is this condition of things the result of any lack of diligence on our part, or want of native ability on the part of those who have in all the past ages applied their best energies to the study of medicine. It is simply inherent in the complex nature of the problems presented to us for solution. Hence it is that medical experts may honestly differ from each other more widely than those in most other professions.

If, however, questions of law or theology could be submitted to the expert on the stand, as those in medicine are, it would be easy for counsel to procure opinions more radically at variance than those expressed by members of our own profession. The opprobrium cast upon us is, to a certain extent at least, undeserved and unjust. In support of this statement we have only to note how counsel wrangle with each other over many points of law arising in every case that is argued; how the decision of the lower court is on appeal alternately reversed and affirmed in each succeeding higher one until the court of last resort is reached; and how even the highest courts in the land have at different periods rendered decisions incompatible with each other. Or imagine for a moment the divergence of opinion which would become apparent if a Materialist, a Unitarian, a Methodist, and a Roman Catholic were called upon the stand to express their views concerning justification by faith, the divinity of our Saviour, the doctrine of eternal punishment, or even the existence of a future state at all. And yet it is a matter of history that these men have had such profound faith in the eternal righteousness of their convictions that they would rather burn at the stake than abate one iota thereof. We can safely promise entire unanimity of opinion on all points as