

matter than the jury, and who must draw his deductions from facts already in the possession of the jury, is not admissible. Were it otherwise, the opinions of the jurors upon the most obvious facts might be always shaped for them by testimony of so-called experts, and thus would a case be constantly liable to be determined, not by the opinions and judgment of the jury, but by the opinion and judgment of the witnesses. *Dineoski vs. Coal Co.*, 157 Pa., 273.

"Before a doctor was asked to give his professional opinion as to whether a fractured limb had been skilfully or unskilfully treated, he had testified that he had graduated at a medical college and had subsequently served as a surgeon for three years in the army, and that he had examined and treated the plaintiff's injured limb. The court held that he was competent to testify as an expert. *Olmsted & Baily vs. Gere*, 200 Pa., 127.

"A witness called to testify as to the chemical purity of certain whisky stated that his profession was that of an attorney-at-law-- he had practiced it for forty years, and had never been a practising chemist. It was decided that he was not qualified as an expert. *Hass vs. Marshall, S. C.*, May 22nd, 1888, C. P. of York County.

"Witnesses, except experts, who are produced in court and examined, are not allowed to give their opinions or their beliefs. They are merely produced in court to testify as to the facts that have come under their actual knowledge, but an expert can give the jury and the court the benefit of his opinion and of his belief. Therefore, physicians and surgeons when produced to testify in court, not as to an injury that they have seen or at which they were present when it took place, but as to their belief as to the result of that injury, or as to the condition of the party, have higher rights: that is, what you might call higher rights: they stand on a different plane from ordinary witnesses, and it is very important that the medical profession should realize the position that they hold before the court and jury, for their testimony may take away a man's liberty or his life or his property or his

possessions.

"The difficulty that I have seen in expert testimony of the medical profession is that it is hard to make the jury realize the standing of the men who are testifying, and the thoroughness with which some have followed their profession as against others who have not been so careful. In the presentation of a case by doctors as expert witnesses on the one side and on the other side, the standing, the ability and the thoroughness of each man should, in some way or other, be shown, so that the jury could realize whose opinion should have the greatest weight. English judges probably present this more clearly and more emphatically to the jury than our judges do.

"The criticism that I have to make of medical experts is that they are inclined to testify that a possibility is a probability, that is to say, when a man has been injured, there is a possibility that he may be permanently injured from the accident, or that he may die from it, but the expert, becoming a little over-zealous or too much interested in the cause which he has at heart, will state to the jury that a man probably may die from his injuries, when the history of such case will probably show that he will get well, and probably not die, but that there was a possibility of his being permanently injured and a possibility of his death.

"According to the Act of 1895, a physician cannot be compelled to testify as an expert.

"According to the Act of June 25th, 1895, Section IV., no physician is allowed in any civil case to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity, which shall tend to blacken the character of the patient without his consent.

"The testimony of an expert is of great importance to the man who is employing him. The technical terms in your profession are much more numerous than the legal profession, and they are very difficult even to a lawyer who has paid some little attention to accidents and to medical matter, to follow: therefore, it is much harder for a jury to follow these terms, and it is of importance that medical expert testimony shall be de-