

EXPERT TESTIMONY.

The want of perfectly unbiased, reliable expert testimony is frequently a serious obstacle in the administration of justice; sometimes, and especially, is this the case in relation to the question of insanity both as effecting the liberty and the life of a fellow creature, the line of demarcation between sanity and insanity, as was recently stated in this Journal, is very imperfectly defined, indeed, has never been defined at all. This fact has been plainly manifested in the recent case of Mrs. Lyman of Montreal. When therefore in doubtful cases, wherein an individual at times exhibits peculiarities and excentricities or perhaps freaks of passion, and yet at other times, and perhaps for the most part, no particular signs of mental alienation, and a number of ordinary medical practitioners, or even experts, are called upon to examine the case and pass judgment upon it, how can it be expected that all will agree as to which side mentally the individual is of a line which never yet has been pointed out nor defined? And yet this is what the public do expect of medical men. And when the latter differ in opinion on a case of questionable insanity, they are seriously criticised and abused and their honesty is brought into question. Previous, too, to the personal examination of the case, certain of the medical men, on the one hand, had been told, honestly or otherwise, by those interested in this particular direction, of all the strange and peculiar freaks of the individual whose sanity is questioned, and certain others of the medical men, on the other hand, have been informed, honestly or otherwise, by others interested in another direction, that the individual never had done any particularly strange thing nor exhibited any signs of insanity: and by such information as this, even the experts must be to a certain, though limited extent, influenced and guided in deciding upon the mental condition of the individual in question. As, in life, the walls of

a dense bony case intervene between the instrument of the mental manifestations—the brain, and the eye and the knowledge of the expert and scientist, he can only judge of the soundness of this instrument by its manifestations, past frequently as well as present.

There may be in the medical profession as in all other professions and classes, and sad it is to relate it, men who, for money, will give evidence favorable to which ever side of a case they happen to be engaged on. But in cases of doubtful insanity, an answer to the question involved is often really a matter of mere opinion, and as men will differ in opinion, doctors being as well as others susceptible to such differences, it is not difficult to find men in the profession who will give an honest opinion favorable to one side and others who will give an honest opinion favorable to the other.

The method now in common practice of medical expert evidence (or indeed any other expert evidence) being called by both sides—the plaintiff and defendant—in a case, is certainly not a good one, and tends to encourage questionable motives and dishonesty in the testimony. The question of substituting some other and better method has been repeatedly discussed in medical journals. To the public who do not understand the whole subject and the various and intricate points involved it appears discreditable to the profession—and it does bring great discredit upon it to see, as a writer puts it, several distinguished physicians testify on a trial that a person is insane, and then to see them followed by several other equally distinguished physicians who testify to exactly the opposite. Non-medical evidence too is sometimes allowed to outweigh, with judge and jury, the medical evidence. All things considered it would be well if medical men would refuse to subject themselves to being placed in such a false and unjust position.

As a remedy, it has been suggested that experts be called only by the court, instead of by the different sides in a case. In this way the physician would certainly be in a much more independent position, and there would be less temptation to give unbiased testimony. This is a point