

Selected Article.

MEDICAL EXPERT EVIDENCE.

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Owing to the increased number of actions founded on negligence and the modern methods of conducting criminal trials, evidence of experts has become an important factor in cases at Nisi Prius. Thirty years ago, the presence of a number of medical men as witnesses, for the plaintiff and defendant respectively, was very unusual. The plaintiff called the medical attendant, and his report was generally accepted as sufficient on that branch of the case. His evidence has now to be supported by several medical experts, by reason of the fact that the defence is certain to call several doctors, either to combat the allegation that the loss is due to the injuries complained of, or to minimize the amount of damage which the plaintiff seeks to recover. The same practice, to its fullest extent, holds good in cases involving mechanical construction and operation, and has also been adopted in the trial of issues turning upon disputed handwriting. Perhaps the increase in the volume of this class of evidence is more marked in criminal prosecutions and defences, when death is alleged to be the result of poison or external injury, than in other trials. It is not unusual, at the present time, to find in criminal trials a dozen doctors on each side, and in many instances medical opinions for the defence are found to be totally opposed to those on behalf of the Crown.

The reason for this condition of matters becomes apparent when we consider the methods of modern practice. Cases are now prepared more minutely, if not more thoroughly, than they were many years ago. Every detail is worked out, and every point of the adversary is anticipated. More money is expended in preparation and trial than formerly, and counsel are now dealing much more with the scientific elements of a case than they once did. Indeed, to be a successful counsel, a thorough knowledge of surgery and mechanics seems to be as requisite as familiarity with the law. This being so, it becomes a serious question to consider what weight ought to be attached to this kind of evidence, and whether the judge who relies greatly upon its value in charging a jury, or the judge who entirely ignores it, is in the safer channel.

Some judges, here as well as in England, are, it is well known, apt to criticize adversely opinion evidence, and they