

would be negative. A case of this kind recently occurred, and the evidence being reported in narrative form, there was a difficulty about it on the argument in Term.

Not unfrequently a counsel will begin a question with: "Now, you say that—" and then go on to state something which the counsel has wrongly *inferred* that the witness has stated, and which the witness would deny if the lawyer stopped there; but the latter, merely intending his misquotation as a preface to his question, proceeds without stopping, "and you also admit, if I understand you rightly, that—" and then states something to which the witness readily assents. Here again there is great danger of a report in the narrative form doing serious injustice to testimony by assuming the answer to have referred to both parts of the question.

The case sometimes occurs of a witness being asked a question, in which he is told something that another witness has said, or is informed of some other fact which causes him to make a statement in regard to that particular point which is a modification of something he has said earlier in his examination. This variation, if the question be not given, may, in the mind of a person who afterwards reads the evidence without having heard it from the witness' mouth, cast undeserved suspicion on his credibility, through the reason for the modification not appearing.

A witness says in the course of an examination "I did not pay him for the piano." He is then asked, "you were worthless financially at that time, weren't you," and his reply is, "I failed." A question at once arises in the reporter's mind, "does the witness mean that he failed to pay for the piano, or that he did not pay for the piano because he became insolvent?" The reporter must not stop to debate the point with himself, as he has to be attending to what follows, and as he is supposed to give as nearly as possible the *ipsissima verba* of the witness, he will, reporting him in the narrative form, probably record this passage, thus:—"I did not pay him for the piano; I failed," leaving the meaning doubtful, where, if both question and answer were given, it might be clearly perceived in the light of some other portion of the testimony.

When a witness replies directly to a question, as to which of two alternative circumstances or sets of circumstances was the one actually existing at a certain time, the full spirit of the interlocution is not preserved in the record if his answer, simply as given, without any allusion to the

other alternative, be all that is noted; e.g. Question—Was it more because you were afraid of him, or because you did not want to hurt him that you refrained from striking him? Answer—Because I did not want to hurt him.

It is doubtless in no small degree owing to depositions taken by special examiners being usually recorded in narrative form, that we so often hear witnesses denying, in court, that the words attributed to them therein, convey the meaning which they had intended to express.

If, then, it be necessary that evidence be sometimes taken down in the form of question and answer, it is essential to its being done accurately that the reporter be most expert in the art of shorthand writing. Were it practicable to take it down entirely in narrative form, a much less practised reporter should be able to do the work than one who would be competent to record it in the form of question and answer. But when it is considered that, as is well known, the utterance of interlocutory discourse is a good deal more rapid at times than that which is heard in the majority of set speeches,—in which volubility is restrained, in a measure, by the necessity of keeping the mind directed toward a train of reasoning,—it will at once be seen that a very high rate of speed is indispensable to the reporter who is to take down evidence in the form of question and answer as fast as spoken. Even in cases in which the evidence is being reported in merely narrative form by a shorthand writer, witnesses will sometimes make long statements in the course of which they will speak so quickly that unless the reporter be a man fully competent to take down testimony in question and answer on occasion, he may, while sketching the general outlines of the narrative with a reasonable amount of fidelity, omit, in his endeavors to keep pace with the speaker, some expression which he may not at the time consider of any consequence, but which, taken in connection with some particular circumstance in the case, perhaps as yet undeveloped, amount to very important evidence.

If, as frequently happens, a very long question be put which contains a reference to several different circumstances, all of which it is necessary to note at that particular time for some purpose of identification, it would be utterly impossible for the swiftest shorthand writer in the world to wait until he heard the answer, mentally reduce the question and answer to narrative form, and then record it with full assurance that he was doing so accurately,