

usually appear in the compulsory performance of a public duty, and it is essential to the due administration of justice that they should testify fully and freely. The great majority of persons called upon to testify in courts of justice are quite ignorant of the technical rules of evidence by which legal proceedings are governed; and if they were not, they are, in most instances, unacquainted with the true nature of the controversy and the exact condition of the issue between the parties. So they are generally in no position to determine for themselves the materiality or pertinency of answers to particular questions. Moreover, it is not for them to decide such questions. The law has imposed that duty exclusively upon the courts. Hence the rule is universal that a witness is *prima facie* protected in all cases. Where the answers given by him are in direct response to questions propounded to him by court or counsel, he is absolutely protected. If the question was put by the court, there could be no liability for answering it; if put by the plaintiff's counsel, the plaintiff can have no ground of complaint that it was answered; if put by the defendant's counsel, objection should have been made, and, if improper, it would have been excluded. A witness is not answerable, therefore, for statements which he may make in direct response to questions put to him which are not objected to and excluded by the court, or concerning the impertinency or impropriety of which he receives no advice from the court. Witnesses testify under the guidance of the court, and they may safely rely upon the silence of the court or the absence of objection on the part of counsel. The question of materiality is waived and concluded by counsel's failure to object to the question or answer, or to move to exclude the testimony. For statements volunteered, or not in response to questions by court or counsel, the witness is also protected so long as such statements are relevant and material to the issue; but he will be permitted with impunity to volunteer defamatory statements which are irrelevant to the matter of inquiry.

The doctrine has necessarily been applied with similar latitude in relation to comments by counsel. -The position of an advocate would be perilous if he were held strictly responsible for the