

ent from that proved. A judge or jury pronounces on evidential facts. These facts reflect to a greater or less extent, the mental bias and feeling as well as the imperfections of the witnesses. The evidence is but the impression made by the reality. It is a conclusion arrived at by mental process through the senses. Is it, therefore, much higher after all, than what is known as mere opinion evidence?

If this argument be correct, there is, therefore, but little distinction to be drawn between the evidence of the medical expert and that of the ordinary witness, assuming both to be equally honest. The testimony of either is generally to be more relied on than that of the party litigant. Medical men differ in the witness box in no greater degree than they do in the treatment of a patient, and it would hardly be safe to argue that they administer medicine with a bias or from improper or interested motives. Very great weight ought to be given to the evidence of medical experts who stand well in their profession, even when grave differences exist in their opinions; just as a counsel attaches a high value to the opinions of judges, whose judgment may be against the counsel's contention.

It is because medical men honestly differ that they are called as witnesses, and in that difference, the jury may often reach the truth. Upon a question, with which the lay mind is not familiar, what after all is the best evidence? Take the case of an accident as an illustration. First, the mechanical side of the question comes up for discussion. Who is better qualified to speak on the subject,—the counsel and the lay witness, or the man whose whole life has been devoted to working or perfecting the machine in question? Then the medical or surgical phase must be dealt with. Shall the locomotive engineer or the man who runs the saw in the mill, be taken as a witness in preference to the physician or surgeon, whose education, practice, and experience have made him eminent in his profession? If truth is the objective point, one would naturally go to those who should know most concerning the matter. If a verdict only is looked for, then the verdict might as well be given without evidence as with it. What would any court say if a blacksmith were called to testify as to the law in force in a foreign state? What would the same court say if a judge were called as a witness to speak as to the extent and consequences of the bodily injuries complained of? It is always of vital importance that the exact