

A medical man, as an ordinary witness, may be asked as to the condition he found matters in, when called as a witness, that would be the common question, but when he is asked, describing this condition: "Doctor, is that condition dangerous to life?" then he is called upon to express an opinion.

Now, evidence must be relevant, and there I quarrel occasionally with the doctors, because they sometimes travel out of the regular track,—they go abroad. It must relate to the facts in controversy; it must tend to prove, or disapprove, or explain them, and it must meet the requirements of the law both as to its form and as to its authenticity.

As to its form, there are several forms in which such evidence may be given. It may be given in the shape of an opinion, or it may be given in the shape of a statement, setting forth the taking of a dying declaration. The latter, however, has to follow the forms of law and, of course, to be sanctioned by an oath.

The question of the admissibility of testimony is for the Judge, the question of the weight to be attached to the evidence is for the jury.

There is another sub-division of evidence, somewhat cognate. Evidence is either direct or indirect. Direct or positive evidence is not aided by any presumption or inference, while indirect evidence may be proof of collateral facts believed to have a connection with the principal fact to be proved. Or again, it may come into the region of expert testimony, that is an inference reasoned out from the knowledge and experience of the witness who details it—cause and effect—to show that the ultimate fact which is sought, either exists or does not exist.

Now, wise as non-professional people may be, they are not qualified in a great many cases to draw or make inferences, and that is why, on the ground rather of necessity than on any other legal ground, so-called opinion evidence is tolerated as part of the process of arriving at a conclusion. The ordinary conclusions have usually to be arrived at from definite facts, but owing to the variety and multiple forms of our civilization, the importance of the arts and sciences, the mysteries which are investigated by the medical profession, and in some of the arts and sciences such knowledge being limited to a small class, it has become necessary, in many investigations, in order to get at the root of the matter, to permit or allow, not evidence of the facts, but skilled persons to tell us what the proper inferences should be from the given facts, and in that way has grown up this system of calling experts in many cases to assist the court in arriving at a proper and just conclusion.

A very familiar instance will illustrate: Take a case (I think it is cited in one of your text books on jurisprudence); suppose that a child