

I have had the opportunity of reading Mr. Justice Riddell's paper read to the Medical Association and am convinced that he is right and any real remedy must come from within the medical body itself. Medical men should be taught the true office and function of a witness, and with regard to cases dealing with testamentary capacity should learn what the courts have given as the standard of capacity and, accepting that, attempt to aid in the solution of the question before the court rather than to confuse by giving evidence based upon some other than the accepted legal definition.

Then there is the question whether the right of appeal upon questions of fact should not be restricted.

Courts exist to ascertain and determine the rights of the parties, that is their primary purpose. This is answered by determining what the facts are and what the law applicable to the facts found is. The finding of fact is of importance to the parties and the parties only. The finding of law is of importance not only to the parties but also to the community as a whole. The court declares what the law is and this binds the whole community and therefore it is of importance that the law should be rightly declared and there should be freedom of appeal. The finding of fact is confined in its operations to the parties and while it is of great importance that it should be right the importance is confined to the parties and the parties only. There is and can be no assurance that the finding of fact by an appellate court will in any great number of cases be any nearer the truth than the finding of the court of original jurisdiction. One appeal upon questions of fact ought to suffice. A second appeal seldom has any beneficial result and the expense becomes a factor of great importance. In the classification of appealable and non-appealable matters this seems to me to be a satisfactory line to draw.

With regard to procedure, I have few suggestions. I submit that the scope of originating notices might well be enlarged. At present they afford a satisfactory way of determining questions that arise in the administration of estates. Many other questions could readily be dealt with in a summary way.