

siderable moment to a number of persons other than the appellant, there being, I am informed, a large number of cases, some thirty or forty I believe, adjourned to await the result of the present appeal, I decided, instead of forming my conclusions from reading the evidence taken before the police magistrate, to hear the parties and their witnesses, and allow what has amounted practically to a new trial.

Except the testimony of two professional analysts and of two witnesses called in rebuttal the mass of evidence adduced before me consisted of that most unsatisfactory, inconsistent and highly contradictory class of evidence known as expert testimony, or as it is more properly and correctly styled "opinion evidence." Some thirty-three medical men were called one after the other, and each gave his opinion as to whether a fermented malt liquor containing a certain percentage of alcohol is intoxicating or not. In answering this query some were outspoken, some were cautious, some hedged their answers about with conditions; others wanted preliminary admissions or concessions made before they could make up their minds. What was meant by intoxication? Was the liquor to be taken on a full or empty stomach? Was it with reference to the effect upon a person unaccustomed to the use of intoxicating liquors, or were we asking as to its effect upon more seasoned vessels? Then the changes were successively rung upon the words inebriation, stimulation, exhilaration, obfuscation and intoxication. I was told that there was a great difference between becoming intoxicated in the popular sense, and in becoming intoxicated in the medical sense. I had the various stages of intoxication graphically described to me, and the capacity of the human stomach earnestly considered with reference to the number of pints, or quart of liquid it might or could contain. The probable effect of drinking a large quantity of Blue Ribbon beer at one draught, as compared with drinking a glass every ten minutes, was sought to be established by the opinions of skilled witnesses. The analysts, had by their testimony, fixed the percentage of alcohol in the liquor seized, and I had the virtues and evil properties of this ingredient considered in every phase—its effect upon the human system, upon the circulation, upon the brain, and upon the legs. I was assured that a man might not be considered intoxicated whose legs were a little groggy, so long as his brain was clear, and I was also informed that giddiness and talkativeness, coming on after drinking certain quantities of alcoholic beverages, were, in a medical sense, no reliable indication of insobriety. One medical gentleman asseverated that in his opinion one could drink enough liquor containing $2\frac{1}{2}$ to 3 per cent. of alcohol to burst, but as to discovering any symptoms of intoxication, the earlier calamity would supervene and prevent further investigation. I was told that vomiting and rejection by the stomach of liquor of the strength of that described to the witnesses, would most certainly follow rather than any symptoms of alcoholism. On the other hand I was most solemnly assured by four or five most eminent physicians that two or three glasses of this liquor would certainly produce symptoms of intoxication, and four or five glasses would successfully inebriate the patient.

It is upon contradictory evidence of this character that I am to form my conclusions as to the quality and properties of the liquor seized in the possession