

Now, what is the remedy? According to my view, the expert's true position should be that of an assistant or adviser to the court. (Applause.) We have an illustration in another branch of law. If you ever attended any of the trials in the Admiralty Courts in England, you would notice that in technical nautical matters the Court is assisted by two skilled nautical assessors, or advisors. The Court is not bound to adopt their opinion. When a question of seamanship comes up, whether the right manoeuvre was made, the Court leans over to the stout old captain on his right (who is supposed to be one of the salt of the earth), and says: "Captain was that a right move to make under those conditions?" "No, my Lord, that was injudicious." Then he turns to the old salt at his left, "What do you say?" "I think it was injudicious; I think it led to the disaster." The judge thus learns from skilled men the force and effect of the particular manoeuvre, and naturally is aided to a proper conclusion. Of course, we cannot put a doctor relatively in the same position. I am afraid the court would suffer if they had a doctor sitting on each side (laughter), but we can perhaps devise an approximate condition, or establish a modified method for obtaining skilled advice and assistance from your profession.

My idea is this: I think the Court itself, the judge or possibly the State (though with the latter politics might interfere), should select the medical experts, if a dispute arose which called for the opinions of medical experts. A fund should be provided in some form. A fee could be allowed and taxed in the cause, against the unsuccessful parties, and out of this fund the court could direct that a liberal fee be paid the doctors whose opinions were sought. The expert selected in such a manner could not be said to have any interest in the issue of the case, nor would his reward depend upon the nature and character of the evidence given by him.

So much has the Local Legislature been impressed in connection with the subject of expert testimony and its abuses, that a recent amendment of the Evidence Act has been made with the object of restricting the number of experts to be called, and three experts only are now allowed to be called by either party to a cause, except with the leave of the Court. If a party desirous of calling experts thinks that three will not be sufficient, he has to apply to the Court for leave to call, say, five instead of three, but such application must be made before the other side tenders any evidence. He has to apply to the Court in advance and before the trial to be permitted to call more than three experts.

A learned gentleman, I think he was a little more free-spoken than I am, was asked whether there was as much perjury in the witness box