
George W. Pugh
applying to the world without first considering the society upon which it has to be based is at best utopian. Such legalistic thinking can only obscure the nature of the problem and, therefore, hinder the possibility of its solution.

David Lehman*


Because of the complexities of modern industrial society, the increase in personal injury and workmen’s compensation litigation, and the great advances in medical science, doctors are more and more frequently called upon to give expert testimony in judicial proceedings. A lawyer should not be surprised to learn that many doctors approach the witness chair with misgivings, for certainly the lawyer called upon to play a prominent part in a surgical operation would approach the operating table with even greater trepidation (whether asked to serve as operator or operatee). A doctor in the courtroom is a stranger in a strange land, unfamiliar with the customs, traditions, and ritual. In such an environment, he is called upon to express his professional opinion and to defend it against vigorous cross-examination. Frequently the views he expresses are diametrically opposed to those expounded in the same proceeding by other members of his profession, and the conflicting medical opinions are argued, sifted, weighed, evaluated, and judged by laymen—for of course judge, lawyer, and jurymen are all laymen with regard to things medical.

If the increased participation of the medical man in judicial proceedings is to result in increased respect between the professions, and if the talents of the doctor are to be more effectively utilized by the law, then it is important that doctors gain greater understanding of the function of the lawyer in society, of the nature of judicial proceedings, of the philosophy underlying the adversary system, and of the function and significance of the doctor’s role as expert witness.

The aim of Professor Tracy in writing The Doctor as a Wit-

*Administrative Assistant for the Center for the Study of American Foreign Policy of the University of Chicago.
ness is not nearly so embracive. Although his goal is more modest, it is nevertheless very important. Writing for doctors, he endeavors "to explain to the busy practitioner who has had little experience in court rooms the various kinds of legal proceedings in which he may be called to testify, how these proceedings are conducted, and what is expected from a medical witness when he is called to take the stand." (p. vi) During the course of 217 pages the author discusses a wide range of topics, such things as: privileges and obligations of the doctor witness; opinion evidence and expert testimony; direct and cross-examination; testimony in insanity proceedings, workmen's compensation proceedings, and malpractice cases; the doctor witness's preparation for testifying; compensation of the doctor witness; and proposed reforms as to the use of expert medical testimony.

In view of the variety of things discussed and the brevity of the book, it is not surprising that, if presented as an exposition of the law for lawyers, it would have very serious shortcomings. For such purposes it would be much too glib, over-generalized, and misleading. But it must be re-emphasized that the book is written not for lawyers, but for doctors. The author expressly states that it is not intended as a text and that it is "purely informational." (p. vi)

Even in a book for laymen, however, there are considerable dangers inherent in attempting to explain in a couple of short paragraphs such complex things as the business entry exception to the hearsay rule; (p. 70) the reader might accept it as a full and complete explanation. But if the doctor-reader accepts this book merely as very general informational reading, and will not attempt to rely upon it as a statement of what the law is with respect to particular problems, then the book can be quite beneficial.

It is written in a clear and lucid style and discusses many things that will be of interest and importance to the doctor who is called upon to serve as a witness in a judicial proceeding. It gives many helpful suggestions as to how the doctor should prepare himself for his service as witness, and some sound advice as to how he should conduct himself on the stand. In addition, the author points out how to avoid some of the pitfalls and traps that can devastate the effectiveness of a witness's testimony.
This little book should help the doctor to approach the witness stand with greater confidence, understanding, and equanimity, and to make a more effective witness.

*George W. Pugh*

*Associate Professor of Law, Louisiana State University.*