

Mr. LUCE. If I couldn't find a doctor, a reputable doctor, who would advise me that the doctor on the other side was wrong, then there was nothing I could do about it. I couldn't get on the stand and testify.

Mr. REUSS. But couldn't you, by your cross-examination, satisfy yourself as to where the truth probably lay?

Mr. LUCE. You are asking me about trial techniques. Frankly, I tried to satisfy myself on a medical question by going to doctors in whom I had great confidence and putting the question to them. Now, if they said to me you are wrong, you are up the wrong trail, I would maybe go to another doctor. But there might come a point where I would say, "Well, I guess maybe I am up the wrong trail."

Mr. REUSS. Didn't you ever have in your practice, as I surely did in mine, cases where, as it turned out, a lot of learned doctors were wrong, and hadn't sufficiently researched the matter, and where you, by perspicacity and dogged pursuit of the matter found out something about this occult medical matter that a lot of the medical men didn't know? Didn't you ever have that experience?

Mr. LUCE. I think I was dogged and I hope I was perspicacious, but I don't recall any instance in which I uncovered a medical truth that I hadn't first learned from a doctor.

Mr. REUSS. Well you missed a very rewarding part of law practice. Let's get back to this hypothetical lawsuit. Don't you think that even without consulting with all of the psychologists you could find, that it would be a useful thing, on such an occasion, if you put the proponents of the MMPI test through the hoops on this, to find out precisely when these original tests had been conducted, in what mental institutions in Minnesota, who had conducted them, what outside controls they used, the makeup of these other people, both religious, racial, geographically, every other way? Wouldn't it have been interesting to inquire into who it was who set up the norms for this, who decided what were the normal people and how did they determine this, and who decided who were the people who had these 16 good qualities, the absence of which makes one flunk the MMPI test? And couldn't you, even without consulting any psychologist, but based on your natural inquisitiveness, ask a good many questions which would help you in your judgment as to whether this is really a valid or a frivolous and pseudoscientific test?

I am not trying to be disagreeable. I am talking to you as a fellow trial lawyer.

Mr. LUCE. I think you have asked a fair question.

I inquired of psychologists, people who were experts in the field, as to the validity of these tests. They told me that in their judgment the tests were helpful. And I, at this point, felt I had made a reasonable inquiry.

Now as to this Minnesota test we are talking about. The consulting firm we now retain has used it only twice in their testing of our employees, both times after it used one of the others. The one they usually use is the Guilford-Zimmerman test. And in one instance in which it was used, and I can't disclose the name, this Minnesota test saved the man's job. It didn't cost him his job. One of the questions you put to me asked what if we had a man fired because of this test. We saved a man's job.