

under the like circumstances, to follow his example. The proverbial uncertainty of the law has unquestionably its highest illustrations in what are called horse causes. Looking back to my own observation and experience of such cases, and speaking necessarily with a peculiar knowledge of their merits, I have no hesitation in saying that the verdicts have been quite as often on the side of *wrong* as on that of *right*, and that, therefore, the law itself is as frequently, in its operation, productive of serious injury as of reasonable justice. This is no extravagant assertion, but a deliberate conviction at which I have been compelled to arrive on a mature consideration of facts. What is more, I always endeavour to force it on any one who may happen to consult me on a question of disputed soundness, and I am inclined to think not without effect; for, though I never examine more horses than I ever did, I have not been engaged in a case of this kind in any court of law for more than a twelve month. To feel that one is in the right is doubtless a very noble and very dignified sensation to entertain at any time; but woe be to the man who is foolish enough to fancy that in an action at law, and when the dispute is about the soundness of a horse, the question of right is likely to have the slightest weight in the decision. I believe he can nurse no greater delusion. For this is undeniable that the law itself is mainly to blame. All definitions of legal unsoundness are vague and imperfect, and admit of endless quibbling and dispute. Veterinary surgeons may differ in opinion; but what then? The authority of all the veterinary surgeons in the world will not weigh a single grain in the balance against the dictum of some famous lawyer, who whatever might have been his attainments in other respect, could have known absolutely nothing about the diseases of a horse."

Mr. Litt then goes on to illustrate his position by some cases in point, which will be better understood by professional than general readers. One of these is as follows:—

"Or take another instance—one of the last cases of the kind with which I have had anything to do. Some of the readers of the *Review* will perhaps remember it as that of *Drury v. Hopwood*. It was tried in London in 1860, and may be briefly explained as involving the much vexed question of spavin or no spavin. The plaintiff purchased two horses in Liverpool, and took them afterwards to London, where he used them a few weeks without any particular cause of complaint. Being desirous of parting with them, however, they were offered to a dealer, who agreed to purchase them at a given price if Mr. Mavor passed them as sound. They were accordingly examined by Mr. Mavor, who declared them both to be *spavined and lame*, and they were, in consequence, returned to Liverpool. Here they were submitted by the

defendant to the examination of some of the highest veterinary authorities in the place—of Mr. Ellis, Mr. Lucas, and Mr. Bretherton, all of whom were of opinion that they were altogether *free from any appearance of spavin, and that they were quite sound*. Fortified by such opinions as these, the defendant refused to take the horses back, and they were again sent to London. In corroboration of Mr. Mavor's opinion, those of Mr. Field, Mr. Spooner, and Mr. Varnell were also obtained by the plaintiff, and the horses were sold at Tattersall's, and bought back by an agent of the defendant. Shortly afterwards they were again sold, but at different times and to different persons, and *each* at the time of sale examined by a veterinary surgeon, the one by Mr. Payne, of Market Drayton, the other by Mr. Kettle, of the same place, neither of whom, I believe, knew anything of the history of the animals, but both of whom failed to detect any appearance of spavin. Some time afterwards, and shortly before the trial, they were examined also by me, and I may here say emphatically, for myself, that, in my opinion, the hocks of both these horses were perfectly free from any appearance of spavin or any trace of disease of any kind. At the time of trial, one of the horses, then the property of a gentleman of high position in Staffordshire, to whom he had been sold, it may be mentioned, for a larger sum than that given for him originally by the plaintiff, was brought to London, and the coachman who drove him gave evidence to the fact of the horse having been regularly used in his master's carriage, and of his perfect freedom from all sign of lameness. The animal was also brought up for the inspection of the jury themselves. I need not say that the evidence was of the most contradictory character—Mavor, Field, Spooner, and Varnell, on the one side, and Ellis, Lucas, Bretherton, Payne, Kettle, and other less important witnesses, on the other side. Nothing reflecting more seriously on the character of professional evidence can possibly be conceived. The judge—Mr. Justice Erle—summed up rather, I think, in favor of the defendant; for he remarked somewhat pertinently that as the horses had, since they left the plaintiff's possession, been sold for more than he had given for them in the first place, and were shown to be still worth the money, although they had never been subjected to any veterinary treatment, he (the plaintiff) who was suing for damages had suffered no damage, except by his own act of parting with the horses in the particular manner he had done. The jury were locked up a considerable time, but eventually found a verdict for the plaintiff. I must resist any temptation to comment at much length on this case, excepting in so far as it illustrates the absurdity of the law itself. Where such authorities as these differ in professional opinion could any jury—it may be, of twelve men, not one, of