

redress; but for the loose giving of expert or opinion evidence no remedy has yet been found. At best one can call attention to it by cross-examination which usually makes the witness more stubborn.

The evils and difficulties above outlined are so great that those that suffer from them naturally look for some remedy. The railway company apparently came to the conclusion that the only remedy was these fictitious actions. These certainly have, in a very marked manner, drawn attention to the evils complained of; and it may be that good will result, but we cannot accede to the doctrine that evil can be done so that good may result; and, in our opinion, the remedy adopted would be prejudicial to the general administration of the law.

As regards expert evidence, referring now especially to that of medical practitioners, it will be admitted that every such expert in giving so-called opinion evidence should exercise the maximum of caution and reserve, in view of the possibility of error. It is the frequent disregard of this caution, by some experts, too enthusiastic in their client's interests, that has in many cases brought expert testimony into disrepute; and perhaps it may be claimed by the company that the evidence given by the medical practitioner in the cases before us was no exception to what has become almost the rule.

If the only possible remedy (and it is certainly difficult to find any remedy) be the bringing of fictitious actions, and if the law is to be taken as stated in the old authority we have quoted, it would seem that the proper course might have been to apply to the Crown for leave to bring such an action. What the result of such an application would have been, and how it would have worked out, is not at present worth discussing. But the question is whether the means adopted by these defendants and their legal advisor to protect themselves from an admitted abuse was one which should be permitted. In other words, was it legitimate to make a court of justice an unconscious instrument for the desired end? In our opinion it was not a legitimate use of the court, nor one which ought to have been adopted.