

which the action was brought. Under these circumstances the action was dismissed; and, it being also stated that the other action stood on the same footing, it was likewise dismissed.

It therefore appeared that both actions were feigned actions to the knowledge of the plaintiffs and defendants, and also to the knowledge of the counsel for the defendants. The counsel for the plaintiffs was innocent of any knowledge of deception and acted in perfect good faith throughout.

It was clear that these actions were not brought to enforce any real claims, but for the ulterior purpose of shewing that the evidence of the practitioner in question was unreliable, and also presumably to shew that all expert evidence in cases of the class in question must be received with hesitation, or at all events with suspicion as to its good faith.

Just here a word as to the law on the subject. It is laid down in Hawkins' Pleas of the Crown that to bring on a feigned issue for trial, without the leave of the court, is a contempt of court: (Hawk, P.C., b. 2, c. 22, ss. 39-42, 44) and if the issue in question was brought on without the leave of the court, the court had the power to vindicate its dignity and authority by suitable punishment of all persons concerned in the contempt.

The profession as well as the Bench know perfectly well that expert evidence must be taken *cum grano salis*. Judges have frequently been compelled to criticize evidence of that character, and especially medical evidence. An evil undoubtedly exists in the administration of the law in actions for personal injury, where corporation cases are concerned arising from sympathy with an apparently unfortunate claimant. This sympathy is manifested in adverse verdicts of juries, given against weight of evidence, and in the difficulty in obtaining accurate testimony from expert witnesses. Anyone who has had anything to do with defending cases of this character will recognize the existence of this sympathetic immorality and will appreciate its force and extent. For the erroneous verdicts of juries no remedy is in sight; for the straining of facts by adverse witnesses proceedings in perjury are sometimes, though very rarely, a partial