

all others would be that the judge and the lawyers are all bent on getting at the substance of that cause. The fact that has impressed me most in keeping track of English decisions during the last twenty years is this: the skill and the zeal which the trial Court and the trial counsel display in putting the record in such shape that the cause may be disposed of in the appellate Court on the merits, provided the appellate Court takes a different view of the controversy from that taken by the trial Court.

What is the effect of this doctrine of error upon the trial judge? Instead of having his mind centered upon the substantial merits of the cause it will often happen that he is bewildered by a multitude of perplexing small questions of practice in which the cause is constantly embroiled. I remember talking with a distinguished federal judge in the West who, a few years ago, was travelling in England, and was invited by Lord Bramwell to take a seat with him on the bench while he was holding Court in Manchester. A personal injury case was on trial, and a witness was proceeding to give a somewhat informal, but really substantial and accurate account of how the accident occurred, when counsel for the defendant arose and objected to the evidence, and Lord Bramwell reprimanded him for interfering with the trial of the cause. A little later he thought the situation was growing more serious and he arose again to pray an exception. Lord Bramwell informed him that it was his duty to keep the trial of the cause within proper limits and that he considered himself capable of discharging this duty. A little later something more serious, in the mind of the lawyer, arose, and he again ventured to object, when he was sharply reprimanded by the presiding judge and told to take his seat, and informed that if he interrupted the trial again he would be fined for contempt.

Now, Lord Bramwell was old at that time and possibly arbitrary, and I do not commend the practice, but he did not forfeit the respect, I can assure you, of the English barristers who were engaged in the trial of that cause. They knew him to be one of the greatest judges that ever presided over any Court, and I will