HARMLESS ERROR.

Whilst a discussion of this subject is of more importance in the United States than in Canada, there are some points in the article we copy from the *Central Law Journal* which are not without interest in this country. The writer thus deals with it:—

There is no dispute in this country about the doctrine that error in a trial, which works no prejudice to one complaining thereof, cannot be invoked as a basis for re-examination of a result. In perhaps every state and federal court of this country, this doctrine, in one form or another, and with much iteration in each, has been announced. Such error comes under the maxim de mimimis non curat lex.

Possibly, also, there is little, if any, dispute concerning the standpoint from which the existence or non-existence of prejudice is to be viewed, and that standpoint is, that in a trial a party must have conceded to him the right to conduct his action or defence in whatsoever way the law allows, and any error which prevents such conduct is prejudicial, unless independently of its commission, it plainly appears that he either has no right of action or no ground of defence, as the case may be. This rebuttal of prejudice is also shewn in such decisions as declare that a judgment for defendant should not be disturbed, where plaintiff is not entitled to recover in any event, or that the decision is correct on the merits, or that a defence is generally baseless and insufficient, of which see cases passim.

The trouble arises more in the attitudes of courts when they come to consider whether error has affected, sufficiently to demand a retrial, the right of a party to conduct his action or defence, and whether it has been shewn, despite such error, that he had no substantial right of action or defence, as the case may be.

Cases in which proof shews no action or defence.—Taking the matter up in something of an inverse order, as last above stated, we will endeavour to ascertain whether the rebuttal of prejudice need go to the extent of shewing, that it ought to