ings of the trial Court; in thirty-four of the cases the judgment of the trial Court was modified and affirmed; in one hundred and eighty-two of the cases fundamental error was found in the proceedings of the trial Court; in other words, it was found that the judgment was wrong. Now, what happened? Were those one hundred and eighty-two cases tumbled back upon the trial Court to be threshed over again? Not at all. In only seven out of the one hundred and eighty-two cases was it found necessary to send the case back to the trial Court. As to the rest, the appellate Court was able, upon the record before it, to enter the judgment which the merits and justice of the cause required. Is such judicial administration possible in America? Probably not to the full extent. The seventh amendment to the Federal Constitution and similar provisions in state constitutions forbid the re-examination of questions of fact in appellate Courts. It is possible, however, for Courts of Review in America to apply the English rule, that no judgment shall be reversed for error unless that error has resulted in a miscarriage of justice. And if such a practice were consistently adopted and applied, it would simplify the practice in our trial Courts and eliminate the great majority of new trials, which are now the bane of American law.

It is likewise true that the limitations of appellate Courts in the states are mainly of their own devising. The usual constitutional provision is that Supreme Courts shall "exercise appellate jurisdiction only." It was for those Courts to define what might properly be done under that power. The language excludes nothing necessary to an efficient administration of the law. But because it was easier and more expeditious to find error and presume prejudice than to examine the record as a whole to ascertain whether substantial justice had been done, and because they were greatly overcrowded with work, they have adopted the summary method of presuming prejudice whenever error is found. The result has been to make them in actions at law Courts simply for the correction of errors, bound to order retrials in the lower Courts until an infallible record is produced, or the litigants are worn out or dead. The hardship of