The record being built up on logical principles, and confined to legitimate bulk is easily managed. Make-weight arguments are excluded or easily exposed, and sentimentalities, often dignified by the name of equity, become transparently ridiculous.

In procedure we have been going backwards lately. Let me hope progressive people will not be too much shocked, when the introduction of stenography is indicated as the retrograde step. To stop the cry of indignation, by which my observation may be overwhelmed, let me say at once, that it is the application to law of stenography, while it is a hidden art to almost the whole world, to which I object. When, after transcription, the so-called testimony is submitted to the court, it is not sworn testimony of what took place, but the substituted oath of the stenographer of what one or many witnesses have said. It is in reality hearsay evidence, and no more.

The next point in which our practice is faulty is in the making of factums. The parties should be constrained to make one case, from which all repetitions should be excluded, and into which no argument should be admitted. It should consist of a faithful statement of the pleadings, then of the judgment or judgments appealed from, then of the propositions of law succinctly stated, also the summing up of the evidence, and then the evidence itself.

The last improvement is in the formation of the court, and it is the most important. A Court of Appeal should never consist of more than three judges. They will do more work, and do it better, and more easily for themselves, than a greater number. The moment the number of three is exceeded, the faults of the committee begin to appear. It is said that two heads are better than one, granted; but no proverbial philosopher ever said that five were better than three. It is so well known that good counsel is not to be obtained from numbers, it is hardly necessary to analyse the causes of the fact. In general terms, however, it may be said, that truth is proclaimed by the many, but it is discovered by the few. Proverbially it lies at the bottom of a well, it does not float like cream on a milk-pan.

Simple and easy as are the alterations proposed, the writer has no ardent hope of seeing them speedily brought about. Selfishness, jealousy and prejudice will combine to prevent even their candid discussion; but with the most perfect faith that no true word is ever thrown away, and in the belief that there are some truths in these papers, I close my comments for the present, on "the Court of Queen's Bench and its sittings." R.

OBLIGATIONS OF A TRUSTEE.

When the Supreme Court surprised our legal world by its judgment in *Miller & Coleman*, we were told that the decision was in conformity with English law. We received this assurance with some hesitation, for although we are supposed to be governed, in civil matters, chiefly by the laws of France, and therefore we do not make a special study of English law, yet it was difficult for us, in our ignorance to believe, that the most practical of peoples could possibly have laid down principles leading to absurd results. The following report of a case recently decided in England, establishes, on the very highest authority, that the law there regulating the obligations of a trustee as to diligence is precisely the same as it is in the Province of Quebec:—"In the House of Lords on Monday, the Lord Chancellor, and Lords Blackburn, Watson, and Fitzgerald gave judgment in the appeal of *Spaight et al* v. *Gaunt*. Mr. Gaunt, trustee under the will of A. Bradford, manufacturer, had entrusted £15.275 to a stockbroker, named Cooke, to invest. Cooke, however, appropriated the money and absconded. His estate only yielded 6d in the pound. In an action brought against the trustee, Vice-Chancellor Bacon ordered him to make good the sum lost and to pay costs. This judgment was however set aside, in the Court of Appeal. The late Sir George Jessel, in the course of his judgment, said that a trustee ought to conduct the business of his trust in the same manner as an ordinary and prudent man would conduct his own business; but beyond that there was no liability or obligation upon him. It was not reasonable to make a trustee, who was not paid for his services, adopt further and better precautions than an ordinary and prudent man of business would adopt, and if it were otherwise no one would be a trustee. In consequence of this judgment the appellants appealed to their lordships, and sought to make the respondent liable for a breach