This rule is a very proper one under the circumstances, and good so far as it goes, but yet has not the effect of surmounting the difficulty to which in the previous part of this paper we alluded. The parties are concluded by the judgment of the Superior Court. It may be that the leaning of the Courts as on the question of registry of bills of sale, is well known beforehand. The party unsuccessful in the Court below, avails himself of that knowledge to choose his court of appeal, and has his case decided just as he pleases The triumph in the Court below is converted into signal and inevitable defeat in the Court above, and thus effect is given to a despicable dodge. This is a species of legal jugglery which we desire to see abolished.

It is not for us to suggest the precise remedy. We have exposed the abuse, and must leave the remedy in the hands of those who have the ability to apply it. The nature of it must entirely depend upon the extent to which reform is to be carried. If a re-construction of the appellate jurisdiction of the Courts be intended, the remedy could be applied so as to harmonize with the altered plan and to form a part and parcel of it. If something less be intended, then a simple remedy would be to provide in some form that litigants from a County Court shall not be concluded by the judgment of either of the Superior Courts of Common Law where upon the question involved a conflict of decision between it and the other Court exists, but be at liberty to carry the appeal into the Court of Error and Appeal, and there have it determined. A less expensive and more expeditious proceeding would be in such a case, under given regulations, to allow the parties at once, as if by writ of error, to carry the case direct from the County Court to the Court of Error and Appeal. Either the one or the other would be a decided improvement upon the present anomalous, unsatisfactory, and most pernicious system.

EVIDENCE OF PARTIES TO THE CAUSE.

Justice is usually personified as a blindfolded but amiable looking lady in a sitting posture, holding in one hand a sword and in the other poising scales.

Varied qualities are attributed to her. She is said to be severe, stern, impartial, and merciful; but no one attributes to her the quality of omniscience. While in search of truth she is constrained to make use of witnesses, who, being fallible creatures, are as likely to take advantage of her blindfold state as to direct her in the paths of truth.

Bentham describes witnesses as being the eyes and ears of Justice. As with the natural eye or ear when in a diseased state, it is possible to receive a wrong impression, so with these artificial eyes and ears, it is possible to be deceived.

One object of every judicial investigation is the pursuit of truth. Were all men reliable the pursuit would be in most cases direct and satisfactory. But when we reflect that a man may be mistaken in his narration of what he saw or heard, or owing to interest, or some venal motive, may not choose to narrate what he saw or heard, but the contrary, the pursuit by such means, so far from being direct may be tortuous, and so far from being satisfactory may be impossible.

The tempter is not idle in the affairs of this life. The temptations to deceit and falsehood are many. It is not every man who yields to the temptation, but while conscious that some men do so, it behoves all connected with the administration of justice to be circumspect. Taylor in his work on Evidence well says, that "in judicial investigations the motives to pervert the truth and to perpetuate falsehood and fraud are so multiplied, that if statements were believed in courts of justice with the same undiscriminative credulity as in private life, much wrong would be unquestionably done."

Considerations such as these have for a long time operated so powerfully in the administration of British Jurisprudence as entirely to exclude the testimony of particular classes of persons. Rather than allow the evidence to be given and its credibility to be weighed by those whose duty it may be to hear and determine, the legislature preferred to exclude the testimony in *toto*. Of late a different rule has gained strength both in Great Britain and in Canada; the grounds of incompetency are being gradually removed.

From the earliest time the testimony of parties to a cause has been excluded on the ground of interest. Their interest in the result of the cause has been deemed an insuperable bar to the reception of their testimony. Of late years the English legislature has weakened the obstruction by the creation of numerous exceptions to the rule of exclusion, and finally has removed the obstruction itself.

On 22nd August, 1843, the English Act 6 & 7 Vic. cap. 85, was passed. It recited that enquiry after truth in courts of justice was often obstructed by incapacities created by the then existing law, and that it was desirable that full information as to the facts in issue should be laid before the persons who are appointed to decide upon them, and that such persons should exercise their judgment on the credit of the witnesses adduced, and on the truth of their testimony. It then enacted as a general rule, "that *no person* offered as a witness shall hereafter be excluded by reason of incapacity, for crime or interest, from giving evidence." To this Rule an exception was created in these words, "Provided, that this Act shall not render competent any party to any suit, &c., individually named in the Record, or any lessor of the plaintiff, or tenant of premises