

der the court taking these proceedings incapable of pursuing that even and steady course which should characterize a court of justice, and that the judges of appeal would view the case with a clearer and less prejudiced vision. Whilst the provincial courts are to be congratulated on their right to conserve their dignity for the future without interference, and as heartily as if that right had never been interfered with in the past, we must question the desirability of this state of the law. Experience shows that, after all, judges are only mortal. "Our craft is in danger" has many applications, and is none the less forceful because the subject of its influence is unconscious thereof. In our opinion, it is a misfortune that there should be no appeal in such cases.

As stated above, this decision comprises, in some of the reasons given for it by their lordships, certain peculiar features upon which it may be profitable to comment. As already stated, this case overruled *Re O'Brien* on the question of jurisdiction, and their lordships, or some of them, thought it necessary to account for the former contrary holding. The members of the Bar who attended the court during the term just past credit one occupant of the Bench with the remark that "the Supreme Court never overrules its own decisions, but has developed the art of distinguishing cases into a science." In the present case the court seems to have gone a step further, and endeavoured to show that two contrary decisions were both right, and this is how that somewhat difficult task is assumed to have been accomplished.

The Chief Justice says: "In the case of *O'Brien v. The Queen* this objection" (that contempt is a criminal matter) "was not taken . . . and, moreover, had the objection been there taken, it could scarcely have prevailed in the face of the decision in the English Court of Appeal already referred to in the case of *The Queen v. Jordan*, 36 W.R. 797, in which the jurisdiction had been assumed and exercised, and which was then the governing authority upon the point. . . . Further, assuming that contempt of court is an indictable offence, the case of *O'Brien v. The Queen* was a proper subject of appeal, since the judges of the court below were not unanimous."

His lordship could not have chosen a more unfortunate method of endeavouring to prove that the Supreme Court cannot make a mistake, for the above justification of the decision in *Re*