equity, are now allowed to prosecute undisturbed the actions they commence. From this and other causes, there is at present a glut of common law and a dearth of Chancery business throughout the country generally. It is probable that this state of affairs will continue until it works its own cure, which will be a redistribution of the business among all the courts equally, or some similar modification of the existing system. Meanwhile the Bench and the Bar alike are daily acquiring that familiarity with the changing business of the courts, in the present transition time, which will best qualify them to discharge their several functions when the law shall have slowly settled down to that state of unification which it is the ambition of jurisconsults to realise.

FIXTURES.

What is a fixture? This is a question which has perplexed not only simple men, but great judges — a question which apparently cannot be answered with an exact and comprehensive definition. It seems to be one of those terms which are not capable of being defined with precision, the application of which must be determined by the "circumstances of the case." And yet it is most unfortunate that a clear understanding in legal as well as lay circles does not exist as to what articles, on a sale of land, pass with the freehold, having become fixtures, and what retain their normal character of chattels. The question is constantly arising in this country, where every manufactory has a mortgage on it, between mortgagor and mortgagee, and gives rise to much disquietude on account of the absence of certainty in the law upon the subject.

"According to the old rule of law," says Sir W. Page Wood, in *Mather* v. *Fraser*, 2 K. & J. 536, "if that which had otherwise been a chattel had been *affixed to the soil, whether by nails, screws, or otherwise*, it passed along with the soil to which it had been so fixed." The old rule of law was certainly a simple one, and, if it had been possible to adhere to it, would have prevented a good many conflicting decisions. But though in these latter days efforts have been made to limit the definition of fixtures to things "*actually affixed*" to the soil, as the word implies, it has been found that such a narrow interpretation could not obtain in the ever varying circumstances and complicated interests of modern times, so as to do justice between the parties. The mere fact of annexation has therefore been, for the most part, subordinated to another consideration, the intention of the person who placed the chattels on the freehold; and sometimes it has been entirely disregarded. Indeed it will be found that in certain cases judges have gone, with much doubting, to the utmost limit in adjudging chattels to have become fixtures by a mere constructive annexation.

That the fact of actual attachment cannot be taken as the sole test, will be seen on a moment's reflection. A carpet may be nailed firmly to the floor, but a purchaser of the house would not have the hardihood to claim it as a fixture. A rail fence may rest by its own weight merely upon the ground, but a mortgagor giving up possession to the mortgagee would not be permitted to remove it as a chattel. Again, circumstances will alter cases. Thus blocks of stone, to make use of an illustration suggested in *Holland* v. *Hodgson*, L. R. 7 C. P. 335, placed one on the top of another without any mortar or cement for the purpose of forming a dry stone wall, would become part of the land, though the same stones, if deposited in a builder's yard, and for convenience sake stacked one on top of another in the form of a wall, would remain chattels.