The papers sent to the Chancellor will be returned to the Registrar's office. The Chancellor's address can be obtained on application to the Registrar's office.

FUSION OR CONFUSION—WHICH?

The avowed object of the Judicature Act was to attempt to establish one Court in the place of four, and to provide for that one Court in all its Divisions a uniform system of practice. This was a laudable scheme, but we venture to doubt whether the judges are taking the course best calculated to carry out the intentions of the Legislature.

The Legislature say in effect there shall be one practice for all the Divisions of the Supreme Court. The judges in effect say that there shall be one practice for the Queen's Bench and Common Pleas Divisions and another for the Chancery Division.

The judges, we believe, conceive themselves to be the victims of circumstances, and compelled by the terms of the Act and rules to perpetuate in their respective Divisions the practice which formerly prevailed in the Courts from which the Divisions were constituted, wherever that practice has not been expressly altered by the rules.

This line of action is supposed to be based on the 12th and 52nd sections of the Act, and on the note at the commencement of the rules, where it is said, "Where no other provision is made by the Act or these rules the present procedure and practice remain in force." But although all these provisions are taken almost *verbatim* from the English Act and rules, yet the judges there have come to a very different conclusion as to the construction to be placed upon them, and instead of thinking themelves bound to perpetuate divergencies of practice in the different Divisions, have felt it their duty, as far as possible, to assimilate by judicial decision the practice in all the Divisions. The leading case, we think, on this point is *Newbiggen-by-the-Sea Gas. Co.* v. *Armstrong*, 13 Ch. D. 310. In that case the question arose as to the proper form of an order to stay an action commenced by a solicitor without authority. In this respect there was a difference between the former practice at law and in equity; and the rule was laid down by the Court of Appeal that in cases where no rule or practice is laid down by the Judicature Rules, and there is a variance in the old practice of the Chancery and Common Law Courts, *that practice is to prevail which is considered by the Court most convenient*, Sir Geo. Jessel, M. R., remarking that "by the 21st section of the Judicature Act, 1875 (see O. J. A. sec. 52), it is enacted that in cases where no new method of procedure is prescribed the old practice is to prevail, *but where there is a variance in the practice it does not say which practice.* I have no hesitation in saying, as I have already said at the Rolls Court, though not with the same authority with which I now say it, that I think the Common Law practice in this case is founded on natural justice, and ought to be followed for the future." There the order under review had followed the former Chancery practice

It may be asked how the suitor is to know which practice to adopt when there has been no judicial decision determining which of the two different modes of practice is the most convenient. It would seem, according to Sir Geo. Jessel's gloss on sec. 21, that the answer to that, is that the suitor may select either the former practice at law or in equity in all cases not provided for by the rules; but when any question arises before the Court as to the proper practice, then the Court is to determine the question, not by the rule of what was the former practice in the particular Court from which the Division in which the action is pending was constituted, but, on the contrary, by considerations as to which of the differing modes of practice is most convenient to be adopted in future in all the Divisions.

By this means the present differences in practice which still exist would in time dis-