

though, even then, it was somewhat anomalous that courts of co-ordinate jurisdiction should solemnly decide the same point in different ways, yet we do not think they ever intentionally reached that stage of absurdity where the same court decided the same point in opposite ways. That is the stage to which we are carried under The Judicature Act, one of whose main objects is supposed to be the putting an end to this conflict of opinions, and to secure uniformity of decision by all branches of the court.

It appears to us that, in thus promulgating diametrically opposite judgments, the learned judges must have strangely forgotten that they are now supposed to be administering justice under The Judicature Act, and that they are no longer members of separate and independent courts, but are judges of one and the same court, and that that court is, not unnaturally, expected to speak with a harmonious, instead of an utterly discordant, voice.

We are not so foolish as to expect that The Judicature Act, or any other Act, will put an end to all judicial diversity of opinion, but we do think some way ought to be found for preventing mere questions of practice from being obscured and rendered difficult by conflicting decisions of the court itself. Such decisions, instead of assisting, serve only to darken counsel.

If it should be asked what remedy can be suggested, we would respectfully submit that, in a case of the kind in question, when the same point of practice is simultaneously before two or more Divisional Courts, and it is found that the judges composing these courts have reached opposite conclusions, it would be better, rather than that two conflicting judgments should be given, that one Division should follow the decision of the other, expressing its dissent if it please; or else that the point should be directed to be reargued before a Divisional Court composed of one of each of the differing courts and a third judge, and that the decision thus arrived at should govern. Or, in case a Divisional Court arrives at a different conclusion from that already given by another Divisional Court on the same or a precisely similar point, that it should hold itself bound by the first decision until it is reversed by the Court of Appeal, even though it dissents from that decision.

By the present unfortunate method, the judges are defeating what it was the express object of The Judicature Act to foster and promote, viz., uniformity of practice in all the Divisions of