

in mine has sometimes to wrestle (1) with the intention of the legislature, and (2) with the intricacies of the language in which this intention is clothed. Now, in speaking of the intention of the legislature, I have not forgotten the dictum of the English Judge (Willes it was, I think) who said that it was for the Courts to decide not on what the legislators meant but, on what they said they meant as set forth in some statute, and if the two could be kept entirely distinct—the principle of the Act and the language in which it is clothed—it might be well, but is not the dictum rather a counsel of perfection, good in theory and unattainable in practice? With these difficulties confronting him is it any wonder that a Judge's view may be different from that of the next Judge who has to do with the question, this other Judge being equally capable and equally industrious, or that a Court of Appeal, composed of four or five Judges, may differ from both? or that you, one of the litigants, may think them all wrong? Who is to blame? Assuming, as we may fairly do, that the Judges are capable and that the counsel representing the various parties are industrious, and yet seeing as we do that these differences of opinion exist, must we not bow to the fact that they are inevitable—inevitable at any rate until we have done two things—reformed the legislature and reformed the language. If any one wishes to see how easily ambiguity may arise, let him look at one of the last numbers of the Supreme Court Reports, vol. 51, p. 539, in the case of *Coffin v. Gillis*, on the question at issue as to certain feres. Six Judges took one view and three another. What would have happened if the case had gone to the Privy Council? Who can tell?

So much then for questions of law, and now for questions of fact. In nearly every case the disputed questions of fact come down to two or three, however many may have appeared on the pleadings. It is something like a foot race, where many start and few come in at the end, for the majority fall out by the way. So in a lawsuit; by tacit or formal admissions, or as the result of cross-examination, a number of facts that were disputed at the beginning of the case are established at the end, but even so there are generally one or two left to perplex the Court. Three