

on this point of law." Mr. Justice Riddell, at p. 148, dealt with this point as follows: "It has been pointed out, both before and since the Ontario Judicature Act, and before and since 58 Vict. c. 12, s. 79, now s. 81 of the Ontario Judicature Act, that a court sitting in appeal from a County Court decision, being the final court, is not bound by previous decisions; per Hagarty, J., in *Donnelly v. Stewart*, 25 U.C.R., at p. 398; per Armour, C.J., in *Canadian Bank of Commerce v. Perram* (1899), 31 O.R. 116, at p. 118; *Mercier v. Campbell* (1907), 14 O.L.R. 639, at p. 645 (in the first two cases by a judge giving the judgment of the court). If the case stood thus without anything further, we might not follow the cases in 11 and 25 U.C.R. without inquiring into the soundness of the decisions. But there are authorities which we are bound to follow, whether they recommend themselves to our judgment or not."

The authorities referred to, consisting of decisions of the Court of Appeal in England, and which are declared by the Privy Council to be binding on Colonial courts, are then discussed by the learned judge in detail. But one cannot well understand why a decision of the Court of Appeal in England should be of more binding authority upon an Ontario Divisional Court, sitting in appeal from a County Court, than would be a decision of our own Court of Appeal, such as that of *Duthie v. Essery*, above referred to; nor why such latter decision should not be as binding upon a Divisional Court as a decision of the Supreme Court like that of *Robinson v. Mann*. It may not be out of place to here remark that *Robinson v. Mann* affirmed *Duthie v. Essery*, and therefore overruled *Canadian Bank of Commerce v. Perram*.

The practical result of the cases is to establish a different principle of decision in County Court appeals, from that followed in High Court appeals, notwithstanding the fact that Con. Rule 1217 expressly provides that "motions against judgments and for new trials in actions in the County Court shall be disposed of upon the like grounds and principles as in the High Court." As things are at present, it is impossible for a county judge or