tice shall, unless overruled or otherwise impugned by a higher court, be binding on the Court of Appeal and all Divisional Courts thereof, *as well as on all other courts and judges, and shall not be departed from* without the concurrence of the judges who gave the decision, unless and until so overruled or impugned. Somewhat more than a month after the Act came into force the judgment in the above action was delivered in which the Chancery Divisional Court adopted the view of Lopes, J., in *Agnew* v. *Dobson*, 47 L.J. M.C. 67, N.S. (which can by no stretch of imagination be considered the decision of "a higher court" than our Court of Appeal), and simply ignored the contrary decision of the Court of Appeal in *Sinden* v. *Brown*, 17 A. R., 173. In that case the Court of Appeal expressly held that a magistrate acting without authority, but with the *bona fide* belief that he was acting in the execution of his duty, was entitled to notice of action; and in *Kelly* v. *Barton* the Divisional Court held that a police officer acting without authority was not entitled to notice of action, no matter whether he *bona fide* believed he was acting in the discharge of his duty as a police officer or not. All of which goes to show that it is easy enough to pass Acts of Parliament, but not so easy to get them observed.

SINCE the above was written the case of *Kelly* v. *Barton* has been heard in appeal, and the appeal has been dismissed. Whether the Court of Appeal adopted the view of the Divisional Court on the question of notice of action we are not prepared to say. It is possible the appeal may have been dismissed on the ground that, even if notice of action were necessary, the notice given was sufficient. If so, then they must be taken to have overruled *Howell* v. *Armour*, 7 O.R. 363 (following *Taylor* v. *Nesfield*, 3 E. & B. 724). Altogether the law respecting notice of action can hardly be said to have been made any clearer by this case. As the matter at present stands, the Court of Appeal has now apparently given two conflicting decisions on the same point, either of which it may follow when the point next arises. This may be satisfactory to the court, but hardly so to the suitor.

With regard to the merits of the question, we think a great deal is to be said in favour of the view adopted by the Court of