
Editorial

Divisions of the High Court

An interesting discussion of judicial logistics took place in *Barclays Bank plc v Bemister* (*Times*, December 15, 1987), in which the Court of Appeal heard two appeals against refusals to allow transfers of High Court commercial actions from the Queen's Bench Division to the Chancery Division. In the first action, the appellants had discovered that a transfer to the Chancery Division would have resulted in a hearing within six months of setting down, whereas if it had remained in the Queen's Bench Division it was unlikely that a hearing could be obtained in less than 18 months. In the second case, the appellants had been told, in June 1987, that the earliest date for a hearing in the Commercial Court was March 30, 1990. Both actions involved conflicting evidence about past events (in the first case the defendants were an elderly couple), and the appellants claimed that delay would impair witnesses' recollections.

Dismissing the appeals, the Master of the Rolls said that it was open to parties to apply for expedited hearings; in appropriate (but, by implication, exceptional) cases the judge might direct

a transfer with the consent of his own head of division and that of the division to which the case would be transferred. But the Court of Appeal would be slow to interfere with the discretionary decisions of judges in cases of this kind that no exceptional case for expedition had been made out. Questions of transfer from one division to another were ones of general judicial management and not something with which the parties to a particular action should concern themselves.

However, his Lordship was very critical of the present rigidities of the High Court's divisional structure. The rationale of a system designed to achieve judicial horses for judicial courses had been weakened by the fact that leading members of the Bar, from whom judges were appointed, no longer had practised only in one division. The existence of divisions in the High Court, once created as an aid to efficiency was now an obstacle. In that situation, his Lordship said, consideration would no doubt be given to their abolition, thereby creating a unified High Court, or to their re-definition. Shades here of Civil Justice Review Consultation Paper No 6, published a few months ago, and given that this comes from the head of the

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