in point of truth is no answer at all; but which, nevertheless, entirely defeats the plaintiff's rights in that court, and drives him in all haste to the abandonment of his suit, or sends him to a court of equity to pray for its intervention to avert the threatened wrong by restraining the defendant from availing himself of his legal defence. Thus by the operation of the rules of law, rigidly construed as they were, a man might offer a defence where none existed—because if the defence was one which according to the law of the land ought not to be allowed to prevail, then it was no defence. And the law administered in the Court of Chancery being applicable to the whole of England may properly be called the law of the land.

Not only might an inequitable defence be advanced as an unanswerable plea to a legal claim, but an inequitable demand might be enforced in a court of law. It is easy to give examples. Thus, in a court of law a guarantee might be enforced against a surety of a bond debtor, notwithstanding he was prejudiced by the giving of time to the principal; and a deed might be enforced, notwithstanding it expressed what the parties to it did not intend, or where it was vitiated by fraud which could, however, be proved only inferentially, &c.

Now, whether a court of equity set the matter right by shutting the mouth of the inequitable plaintiff or inequitable defendant, or by restraining him from enforcing the judgment he had obtained, founded upon such inequitable matter, the contrivance was equally clumsy. The concurrent existence of the two systems is an acknowledgment that the full measure of justice consists in the application of law modified by equity. How was this mingled action secured? The court of law acted in direct defiance of the rule of equity, and the court of equity applied the modifying principle, not by controlling or setting aside the acts of the legal tribunal, but by acting in an independent way upon the suitor. It said to the defendant with his inequitable legal defence, "It is true you have an answer to this claim, and if such your defence were brought before the court in which you are sued, you would have a determination in your favour; but that determination would not be in accordance with justice. Although we cannot control that court, we can you, and we hereby seal your lips against uttering this defence, and do it at your peril." Here you have a court solemnly administering the law which was to bind men's acts and another tribunal saying, "We will prevent facts being presented before it, because if they are it will certainly do a wrong." So a plaintiff obtains from a constituted tribunal an adjudication that he has a certain right as against his adversary. This judgment has been pronounced upon full knowledge of all the facts, because if the Court refused entirely to hear the answer, or, having heard, disregarded it as impertinent, it cannot be said the judgment was in ignorance of the facts. But another tribunal says:—"Those facts you treated as impertinent are the strong circumstances upon which the whole case turns—they show the rights of the parties to be the very reverse of what you have declared they are. We have no power to overrule or set aside your judgment, but if the plaintiff attempts to enforce it we shall send him to prison."

Not only did this division (and does still to the extent to which it now operates) aggravate the delay and increase the expense of litigation, but it acted in a way still more obstructive of justice—it increased the chances of surprise. A litigant party is in greater danger of losing the benefit of a defence or reply if he can only avail himself of it by application to another tribunal.

It frequently happens with moral agents that the effect operates back upon the cause, and increases its intensity. It would be difficult to say how much the distinction between the system administered in courts of law and that recognised in courts of equity, has been aggravated by the exclusive devotion of the professors of each to his own branch. Law and equity together form the art or science of ascertaining, protecting, and vindicating rights. But being divorced, each had its own professors, glorying in his half profession, ignoring the other part, even congratulating himself upon his ignorance of it, and indulging in open contempt of its rules and mode of procedure. A disadvantage connected with this, consists in the necessity in many cases of consulting two sets of legal advisers before a party's rights can be known, or his course of action precribed.

Then what are the advantages derived from the severance of law and equity to the extent that common law courts disregard those considerations upon which the equity courts proceed? I am able to suggest only two—first, that to which allusion has been made already, increased accuracy from the division of labour among the courts; secondly, certainty secured by having the stern rule of law inflexibly administered, and the modifying principle applied by a distinct tribunal.

As to the division of labour advantage, as a mere device for dividing jurisdiction, no worse principle could be adopted. In that view it has every possible vice, inasmuch as its limits are not clearly defined, there is a constant dovetailing and mingling of jurisdiction; neither jurisdiction can act independently of the other, yet they do not act in harmony, but rather in antagonism. Division of labour may, without any disadvantages of that sort, be secured to an almost unlimited extent by confining courts to one particular subject of relief, as bankruptcy, marriage, shipping, contracts, torts, &c. Therefore as a mere means of procuring this end, it is an impolite contrivance, being attended with inconveniences, all of which might be avoided, and the same object attained.

Then as to the supposed advantage of certainty, it may be asked why a rule should be considered certain, merely because it cannot be dispensed with or modified by the court in which the suit is brought, when it may be by the intervention of another court, which will certainly interfere if asked to do so. I confess I do not see the difference in this respect between the application of legal and equitable principles by one tribunal, and their application by different tribunals to the same suit. Nay, there is more uncertainty in the latter case, because there is less calculation as to whether and how the modifying principle will be applied, and at what stage of the suit, and in what manner the equitable court will intervene.

The recent changes which have been effected, in the courts of law and equity, upon the recommendation of the respective commissions, have had for their object assimilation to the extent to which each of those courts is impotent by reason of the want of the powers of the other. If, as a result, we have, in some cases, courts of law and equity each having jurisdiction to dispose finally of the same suit, so that the suitor may elect his tribunal, and obtain the same relief from either. I see no inconvenience or anomaly from that. The requirement is that each should apply the same rules, and adjudicate the same way; not that either should have a monopoly of causes.

So far as regards the defective jurisdiction of the common law courts arising from the want of adequate process, it has been remedied to a great extent by the reforms already effected. Others are in contemplation, and are now before the Legislature. But in respect of that owing to the want of competent machinery, or, in other words, of necessary officers, little if anything remedial has been done. The common law courts have no officers or powers regularly constituted for the purpose of taking accounts of investigating title. It is true that matters of account are frequently in practice referred to one of the Masters, but in these cases the Master acts as any other arbitrator does, by disposing as judge and jury of the case, and entering the verdict for the one party or the other. There are no powers for taking accounts collateral to the suit, and for a report being made to the Court on which the Bourt may act. Until this defect is remedied it is difficult to see how the jurisdiction proposed by the Bill now in Parliament to be given to common law courts can be exercised to its legitimate extent. One of the provisions of the Law and Equity Bill proposes to give specific performance of every contract for the breach