

for the same purpose in that Court before the passing of the Ontario Judicature Act, 1881. If the action is one which before the Judicature Act would have been entertained only in the Common Law Courts, the Court of Chancery would not have given any relief, and it follows that in such action equitable relief cannot now be given.

This does not sound in accord with the dictum of Coleridge, C.J., in *Gibbs v. Guild*, 46 L.T. Rep. 248, where in an action for damages for fraudulent misrepresentation inducing the plaintiff to buy certain shares, he proceeds as follows: "How is this case to be decided? As a Common Law action, or as a suit in Equity? It is neither, but it is an action in the High Court of Justice created by the Supreme Court of Judicature Act, 1873, by which the old systems of Law and Equity previously existing as conflicting systems are abolished, and relief is to be administered in all cases according to the provision of the Act. It seems to me plain that it is fallacious to treat this either as an action at Common Law or a suit in Equity, such as existed before the Judicature Act, 1873, came into operation, for the rule now is that in all cases each division of the Court is to administer full justice according to so much of the rules of both Law and Equity as are applicable to the case." This sets forth admirably the popular conception of the law. But do the words, "according to the provisions of the Act," necessarily mean that "in all cases each division of the Court is to administer full justice according to so much of the rules of both Law and Equity as are applicable to the case?" In any event this expression must be regarded as a mere dictum, as the action in *Gibbs v. Guild* would not have been even before the Judicature Act a purely Common Law action.

The question of the application of the rules of Equity in what had been purely Common Law cases came before the Queen's Bench Division in *Armstrong v. Milburn*, 54 L.T. Rep. 247, on a motion before Mathews and Smith, JJ., to set aside a verdict and judgment for the plaintiff, in an action against a solicitor for professional negligence. The defendant had set up the Statute of Limitations, and the plaintiff had replied that