

Acts, the tendency to look on equity as a part of the existing totality of rights and not a separate system of rights. Lord Esher speaks of "the actual legal rights of the parties, including in the words 'legal rights,' equitable as well as common law rights. . . . If the state of things is such that in equity they could not enter, then according to the law, including equity and common law, they could not enter at all."

Ellis v. Kerr (102 L.T. Rep. 417; (1910) 1 Ch. 529) was an action on a covenant, which failed by reason of the same persons being both covenantors and covenantees. Mr. Justice Warrington commenced his judgment by saying "that at law, before the fusion of law and equity by the Judicature Act, such an action as this could not have been maintained." The question was: Could the action "be maintained in this court, which is now administering principles both of common law and equity"? These expressions accord rather with the view of a single court of complete jurisdiction than with the view of a court of double jurisdiction.

As a concluding commentary upon the cases cited, the words of Maitland (*Lectures on Equity*, pp. 18, 20) may be quoted: "We ought to think of equity as a supplementary law, a sort of appendix added on to our code, or a sort of gloss written round our code, an appendix, a gloss, which used to be administered by court specially designed for that purpose, but which is now administered by the High Court of Justice as part of the code." And further on: "The day will come when lawyers will cease to inquire whether a given rule be a rule of equity or a rule of common law; suffice it that it is a well-established rule administered by the High Court of Justice." Maitland may have had in mind Lord Blackburn's words in *Pugh v. Heath* (*sup.*): "Some twenty years ago there might have been some difficulty, in this case, in saying whether the proper form of remedy was by ejectment at law or by a suit in Chancery; but now it is quite immaterial which of the two it is, if it can be shewn that there is a remedy."—*Law Times*.