



Maxims of Equity



By [Khaled Saifullah](#) - 2:02 AM

Maxims of Equity

1. EQUITY WILL NOT SUFFER A WRONG TO BE WITHOUT A REMEDY

Meaning

Where there is a right there is a remedy. This idea is expressed in the Latin Maxim *ubi jus ibi remedium*. It means that no wrong should go unredressed if it is capable of being remedied by courts. This maxim indicates the width of the scope and the basis of on which the structure of equity rests. This maxim imports that where the common law confers a right, it gives also a remedy or right of action for interference with or infringement of that right.

Application and cases

In *Ashby v. White*, wherein a qualified voter was not allowed to vote and who therefore sued the returning officer, it was held that if the law gives a man a right, he must have a means to maintain it, and a remedy, if he is injured in the enjoyment of it.

In cases where some document was with the defendant and it was necessary for the plaintiff to obtain its discovery or production, a recourse to the Chancery Courts had to be made for the Common Law becoming 'wrongs without remedies'.

Limitation

- a) If there is a breach of a moral right only.
- b) If the right and remedy both were in within the jurisdiction of the Common Law Courts.
- c) Where due to his own negligence a party either destroyed or allowed to be destroyed, the evidence in his own favour or waived his right to an equitable remedy.

Recognition

- i) The Trust Act
- ii) Section 9 of CPC- entitles a civil court to entertain all kinds of suits unless they are prohibited.
- iii) The Specific Relief Act- provides for equitable remedies like

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Brendan G. Carr



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