

The judgments so pronounced were looked upon as of divine inspiration, and were carried into immediate effect by their own officers. But the labor so entailed, as the operations of society became more extensive, was too great for them to perform, and we then find judges named as deputies of the sovereign to discharge certain judicial duties.

In Rome, upon the establishment of the Republic, the duties of the supreme judicial office, up to that time discharged by the kings, devolved on the Prætor, to whom also "was transferred the undefined supremacy over law and legislation which always attached to ancient sovereigns and which is not obscurely related to the patriarchal and heroic authority they had once enjoyed." (*Maine's Ancient Law*, c. 3). The Prætor then became, so far as the judicial power was concerned, the representative of the sovereign power of the Republic.

Shorn to a great extent of legislative power in all civilized countries, judges now-a-days are restricted to the explanation, interpretation and application of existing law, created by the sovereign power of the country, to cases presented before them. It is true that in England, Courts of Equity still retain, nominally powers of legislation, but even there the principles of equity have become so fixed by precedent that the legislative power of those Courts has lost its elasticity and has settled into judge-made law.

Moreover, the tendency of modern opinion is to regard stability in judicial decisions as far preferable to the fluctuations in jurisprudence consequent upon the rendering of judgments according to the principles of what are called "equity and good conscience."

Very great differences exist between the judicature systems of France and England with respect to civil matters. In Quebec the English system, with respect to the organization of Courts has, in great part, been adopted. The chief differences between the Superior Court and the English Courts of Common Law lie in the system of Procedure, and in the fact that the Superior Court has jurisdiction in equity, not to be compared, however, in extent, so far as practice is concerned, with the Courts of Chancery in England. We have our Circuit Courts answering to the English County Courts; the Queen's Bench, Common Pleas and Exchequer to our Superior Court; and the Exchequer Chamber to our Court of Queen's Bench. In England there are no special jurisdictions, unless the Court of Equity may be so considered, whilst in France les Tribunaux de Commerce,