

The germs of substantive law were indeed present as potential forces from the beginning, but they did not grow into life until later on. And therefore forms of action have thrust themselves forward with undue prominence. That is why the understanding of our law is, even for the practitioner of to-day, inseparable from knowledge of its history.

As with the common law, so it is with equity. To know the principles of equity is to know the history of the courts in which it has been administered, and especially the history of the office which at present I chance myself to hold. Between law and equity there is no other true line of demarcation. The King was the fountain of justice. But to get justice at his hands it was necessary first of all to obtain the King's writ. As Bracton declared, "*non potest quis sine brevi agere.*" But the King could not personally look after the department where such writs were to be obtained. At the head of this, his chancery, he therefore placed a Chancellor, usually a Bishop, but sometimes an Archbishop, and even a Cardinal, for in those days the Church had a grip which to a Lord Chancellor of the twentieth century is unfamiliar. At first the holder of the office was not a judge. But he was keeper of the King's conscience, and his business was to see that the King's subjects had remedies when he considered that they had suffered wrongs. Consequently he began to invent new writs, and finally to develop remedies which were not confined by the rigid precedents of the common law. Thus he soon became a judge. When he found that he could not grant a common law writ he took to summoning people before him and to searching their consciences. He inquired, for instance, as to trusts which they were said to have undertaken, and as the result of his inquiries rights and obligations unknown to the common law were born in his court of conscience. You see at a glance how susceptible such a practice was of development into a complete system of equity. You would expect, moreover, to find that the ecclesiastical atmosphere in which my official predecessors lived would influence the forms in which they moulded their special system of jurisprudence. This did indeed happen, but even in those days the atmosphere was not merely ecclesias-