

In 400 B.C., during the siege of Veii, on account of the want of sufficient cavalry, those who possessed the requisite fortune offered to provide horses at their own expense. These new equites, distinguished as *equites equo privato*, in opposition to the *equites equo publico*, received regular pay, but, as by the very circumstances of their origin they had neither horse-money (*æs equestre*) nor barley-money (*æs hordearium*), they formed a distinct body from the old equites, and had no share in any of their peculiar privileges. In 303 B.C. the censors Q. Fabius and P. Decius established a law by which it was ordained that every fifth year a procession of the equites should take place, and that those who had misconducted themselves should be degraded from their rank. The procession (*equitum transvectio*) took place every year on the 15th of July (*idibus Quintilibus*), the anniversary of the battle of Lake Regillus. The knights in full equipment rode from the Temple of Honour in the south of the city through the Porta Capena and onwards past the temple of Castor and Pollux through the Forum to the Capitol. Their ranks were purged by the censors, before whom they filed past on foot. If the censor had no fault to find, he said to the eques, *traduc equum, lead on your horse*; but if he was dissatisfied he said, *vende equum, sell your horse*, and the eques ceased to belong to the order. This review bore the name of *equitum recognitio*, or, as the Greek writers translate it, *ἐπίσκεψις*. The equites evidently soon became a very powerful body in the state; yet in 186 B.C. we find it allowed as a reward to P. Aebutius that the censor should not assign him a public horse, and thereby compel him to serve as an eques against his will, proving that the duties must have been burdensome and regarded by many with distaste. In the later period of the republic the equites increased in power and consequence, and at the same time gradually ceased altogether to be what their name implied, the military service, which they had formerly rendered being now obtained from allies and auxiliaries. To be an eques came to mean simply that a man was possessed of a certain amount of wealth without belonging to the senatorial order. The judicial functions were transferred from the senate to the body of equites by the Sempronian law, passed by C. Gracchus about 123 B.C.; and a short time afterwards they became the farmers of the public revenues, by which they were enabled to amass immense riches. They were deprived of their judicial powers by Sulla; but they now possessed too much influence in the state to be excluded from the higher and more dignified offices. After his death they were admitted to their former power, which, however, they shared with the senate. Towards the end of the republic, and under the emperors, the fortune requisite for an eques seems to have been four hundred sesteria, equal to about £3230 of our money; and even at this time knights' horses were furnished by the state, as we find by ancient inscriptions of that period.

The equites, who still in the reign of Augustus adhered for the most part to the use of the simple iron ring, had before the time of Pliny obtained the right of wearing the golden ring formerly distinctive of the senatorial order. Their dress was a tunic with a narrow purple stripe (*tunica angusticlavia*), in contrast to the senatorial tunic with a broad stripe (*tunica laticlavia*). In 67 B.C. a peculiar privilege was granted them by the Roscian law (*lex Roscia theatralis*), which reserved fourteen rows in the theatre behind the senatorial benches for their exclusive use.

Under the empire appears a class of equites distinguished as *singulares Augusti imperatoris*, which has been the subject of much debate. The epithet *singularis* is by some supposed to refer to their possession of a single horse, and by others it is regarded as indicative of their singular rank; but Henzen explains it as equivalent to

*particularis*, because they were attached to the service of an individual. They formed a sort of body-guard to the emperor, were stationed in Rome, and only under peculiar circumstances were called to serve outside of the city. They appear to have consisted largely of foreigners, more especially from the north of Europe: the names of Germans, Batavians, Frisians, Frisæonians, Britons, Helvetians, Dalmatians, Bessians, Thracians, Rætians, Pannonians, frequently occur. A considerable number are evidently freedmen who have adopted the name of the reigning emperor on their entrance into his service; but the advantages of the position also attracted not a few of the Roman citizens. At what time the corps was established is unknown: Henzen thinks it was by one of the Flavian emperors, as there is no mention of them under the Julian and Claudian families, but they were certainly in existence under Trajan. They disappear in the reign of Constantine. Their relation to the auxiliaries was similar to that of the prætorians to the Roman army proper. They were under the command of the prefects of the prætorium, and occupied two camps in the city;—one of which was at Torre Pignattara, where their monuments are frequently found.

See Madvig, "De loco Ciceronis in Libro IV. de Republica," in *Opuscula Academica*, vol. I., 1830; Mühlert, *De equitibus Romanis*, Hild. 1830; Marquardt, *Historia equitum Romanorum*, Berlin, 1840; Zumpt, *Ueber den römischen Ritterstand*, Berlin, 1840; Henzen, "Sugli equiti singolari degl' imperatori Romani, in *Annali dell' Instit. di Corr. Arch. di Roma*, 1850; Goumont, *Les chevaliers romains depuis Romulus jusqu'à Galba*, 1854; Belot, *Hist. des chevaliers romains depuis le temps des rois jusqu' au temps des Gracques*, 1867, and *Hist. des chev. rom. depuis le temps des Gracques jusqu'à la division de l'empire romain*, 1873; Ramsay, *Manual of Roman Antiquities*, 10th edition, 1876.

EQUITY, in its most general sense means justice; in its most technical sense it means a system of law, or a body of connected legal principles, which have superseded or supplemented the common law on the ground of their intrinsic superiority. Aristotle (*Ethics*, bk. v. c. 10) defines equity as a better sort of justice, which corrects legal justice where the latter errs through being expressed in a universal form and not taking account of particular cases. When the law speaks universally, and something happens which is not according to the common course of events, it is right that the law should be modified in its application to that particular case, as the lawgiver himself would have done, if the case had been present to his mind. Accordingly the equitable man (*ἐπιεικής*) is he who does not push the law to its extreme, but, having legal justice on his side, is disposed to make allowances. Equity as thus described would correspond rather to the judicial discretion which modifies the administration of the law than to the antagonistic system which claims to supersede the law.

The part played by equity in the development of law is admirably illustrated in the well-known work of Sir Henry Maine on *Ancient Law*. Positive law, at least in progressive societies, is constantly tending to fall behind public opinion, and the expedients adopted for bringing it into harmony therewith are three, viz., legal fictions, equity, and statutory legislation. Equity here is defined to mean "any body of rules existing by the side of the original civil law, founded on distinct principles, and claiming incidentally to supersede the civil-law in virtue of a superior sanctity inherent in those principles." It is thus different from legal fiction, by which a new rule is introduced surreptitiously, and under the pretence that no change has been made in the law, and from statutory legislation, in which the obligatory force of the rule is not supposed to depend upon its intrinsic fitness. The source of Roman equity was the fertile theory of natural law, or the law common to all nations. Even in the Institutes of Justinian the distinction is carefully drawn in the laws of a country between those which are peculiar to itself and those which

natural reason appoints for all mankind. The connexion in Roman law between the ideas of equity, nature, natural law, and the law common to all nations, and the influence of the Stoical philosophy on their development, are fully discussed in the third chapter of the work we have referred to. The agency by which these principles were introduced was the edicts of the prætor, an annual proclamation setting forth the manner in which the magistrate intended to administer the law during his year of office. Each successive prætor adopted the edict of his predecessor, and added new equitable rules of his own, until the further growth of the irregular code was stopped by the Prætor Salvius Julianus in the reign of Hadrian.

The place of the prætor was occupied in English jurisprudence by the lord high chancellor. The real beginning of English equity is to be found in the custom of handing over to that officer, for adjudication, the complaints which were addressed to the king, praying for remedies beyond the reach of the common law. Over and above the authority delegated to the ordinary councils or courts, a reserve of judicial power was believed to reside in the king, which was invoked as of grace by the suitors who could not obtain relief from any inferior tribunal. To the chancellor, as already the head of the judicial system, these petitions were referred, although he was not at first the only officer through whom the prerogative of grace was administered. In the reign of Edward III. the equitable jurisdiction of the court appears to have been established. For some account of this tribunal see CHANCERY and CHANCELLOR. Its constitutional origin was analogous to that of the Star Chamber and the Court of Requests. The latter, in fact, was a minor court of equity attached to the lord privy seal as the Court of Chancery was to the chancellor. The successful assumption of extraordinary or equitable jurisdiction by the chancellor caused similar pretensions to be made by other officers and courts. "Not only the Court of Exchequer, whose functions were in a peculiar manner connected with royal authority, but the counties palatine of Chester, Lancaster, and Durham, the Court of Great Session in Wales, the universities, the city of London, the Cinque Ports, and other places silently assumed extraordinary jurisdiction similar to that exercised in the Court of Chancery." Even private persons, lords and ladies, affected to establish in their honours courts of equity.

English equity has one marked historical peculiarity, viz., that it established itself in a set of independent tribunals which remained in standing contrast to the ordinary courts for many hundred years. In Roman law the judge gave the preference to the equitable rule; in English law the equitable rule was enforced by a distinct set of judges. One cause of this separation was the rigid adherence to precedent on the part of the common law courts. Another was the jealousy prevailing in England against the principles of the Roman law on which English equity to a large extent was founded.

When a case of prerogative was referred to the chancellor in the reign of Edward III., he was required to grant such remedy as should be consonant to honesty (*honestas*). And honesty, conscience, and equity were said to be the fundamental principles of the court. The early chancellors were ecclesiastics, and under their influence not only moral principles, where these were not regarded by the common law, but also the equitable principles of the Roman law were introduced into English jurisprudence. Between this point and the time when equity became settled as a portion of the legal system, having fixed principles of its own, various views of its nature seem to have prevailed. For a long time it was thought that precedents could have no place in equity, inasmuch as it professed in each case to do that

which was just; and we find this view maintained by common lawyers after it had been abandoned by the professors of equity themselves. Mr Spence, in his book on the *Equitable Jurisdiction of the Court of Chancery*, quotes a case in the reign of Charles II., in which Chief-Justice Vaughan said:—

"I wonder to hear of citing precedents in matter of equity, for if there be equity in a case, that equity is an universal truth, and there can be no precedent in it; so that in any precedent that can be produced, if it be the same with this case, the reason and equity is the same in itself; and if the precedent be not the same case with this, it is not to be cited."

But the Lord Keeper Bridgman answered:—

"Certainly precedents are very necessary and useful to us, for in them we may find the reasons of the equity to guide us, and besides the authority of those who made them is much to be regarded. We shall suppose they did it upon great consideration and weighing of the matter, and it would be very strange and very ill if we should disturb and set aside what has been the course for a long series of times and ages."

Selden's description is well-known:—"Equity is a roguish thing. 'Tis all one as if they should make the standard for measure the chancellor's foot." Lord Nottingham in 1676 reconciled the ancient theory and the established practice by saying that the conscience which guided the court was not the natural conscience of the man, but the civil and political conscience of the judge. The same tendency of equity to settle into a system of law is seen in the recognition of its limits—in the fact that it did not attempt in all cases to give a remedy when the rule of the common law was contrary to justice. Cases of hardship, which the early chancellors would certainly have relieved, were passed over by later judges, simply because no precedent could be found for their interference. The point at which the introduction of new principles of equity finally stopped is fixed by Sir Henry Maine in the chancellorship of Lord Eldon, who held that the doctrines of the court ought to be as well settled and made as uniform almost as those of the common law. From that time certainly equity, like common law, has professed to take its principles wholly from recorded decisions and statute law. The view (traceable no doubt to the Aristotelian definition) that equity mitigates the hardships of the law where the law errs through being framed in universals, is to be found in some of the earlier writings. Thus in the *Doctor and Student* it is said—

"Law makers take heed to such things as may often come, and not to every particular case, for they could not though they would; therefore, in some cases it is necessary to leave the words of the law and follow that reason and justice requireth, and to that intent equity is ordained, that is to say, to temper and mitigate the rigour of the law."

And Lord Ellesmere said—

"The cause why there is a Chancery is for that men's actions are so divers and infinite that it is impossible to make any general law which shall aptly meet with every particular act and not fail in some circumstances."

Modern equity, it need hardly be said, does not profess to soften the rigour of the law, or to correct the errors into which it falls by reason of its generality.

To give any account, even in outline, of the subject matter of equity within the necessary limits of this paper would be impossible. It will be sufficient to say here that the classification generally adopted by text-writers is based upon the relation of equity to the common law, of which some explanation is given above. Thus equitable jurisdiction is said to be exclusive, concurrent, or auxiliary. Equity has exclusive jurisdiction where it recognizes rights which are unknown to the common law. The most important example is trusts. Equity has concurrent jurisdiction in cases where the law recognized the right but did not give adequate relief or did not give relief without circuity of action or some similar inconvenience. And equity has



auxiliary jurisdiction when the machinery of the courts of law was unable to procure the necessary evidence.

"The evils of this double system of judicature," says the report of the late Judicature Commission, "and the confusion and conflict of jurisdiction to which it has led, have been long known and acknowledged." A partial attempt to meet the difficulty was made by several Acts of Parliament (passed after the reports of commissions appointed in 1850 and 1851), which enabled courts of law and equity both to exercise certain powers formerly peculiar to one or other of them. A more complete remedy was introduced by the Judicature Act, 1873, which consolidated the courts of law and equity, and ordered that law and equity should be administered concurrently according to the rules contained in the 26th section of the Act. The 25th section lays down certain legal principles in accordance with the general intention, and also declares that "generally in all matters not hereinbefore particularly mentioned, on which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail." (E. R.)

ERARD, SÉBASTIEN (1752-1831), a manufacturer of musical instruments, distinguished especially for the improvements he made upon the harp and the pianoforte, was born at Strasburg on the 4th April 1752. While a boy he showed great aptitude for practical geometry and architectural drawing, and in the workshop of his father, who was an upholsterer, he found opportunity for the early exercise of his mechanical ingenuity. When he was sixteen his father died, and he removed to Paris where he obtained employment with a harpsichord maker. Here his remarkable constructive skill, while it speedily excited the jealousy of his master and procured his dismissal, almost equally soon attracted the notice of musicians and musical instrument makers of eminence. Before he was twenty-five he set up in business for himself, his first workshop being a room in the hotel of the Duchesse de Villeroi, who gave him warm encouragement. Under her roof he constructed in 1780 his first pianoforte, which was also one of the first manufactured in France, the instruments used previous to that period in the houses of the Paris nobility having been imported from Germany and England. When heard in the *salon* of his patroness, it quickly secured for its maker such a reputation that he was soon overwhelmed with commissions. Finding assistance necessary, he sent for his brother, Jean Baptiste, in conjunction with whom he established in the Rue de Bourbon in the Faubourg St Germain a piano manufactory, which in a few years became one of the most celebrated in Europe. On the outbreak of the Revolution he proceeded to London, where he established a factory similar to that in Paris. Returning to the French capital in 1796, he introduced soon afterwards grand pianofortes, made in the English fashion, with several improvements of his own. In 1808 he again visited London, where, two years later, he produced his first double-movement harp. He had previously made various improvements in the manufacture of harps; but the new instrument was an immense advance upon anything he had before produced, and obtained such a reputation that for some time he devoted himself exclusively to its manufacture. It has been said that in the year following his invention he made harps to the value of £25,000. In 1812 he returned to Paris, and continued to devote himself with unwearied industry and unfailing ingenuity to the further perfecting of the two instruments with which his name is associated. It is needless to enumerate all his improvements, especially as the more important of them must be described in any account of the harp and piano respectively. In 1823 he crowned his work by producing his model grand pianoforte with the double

escapement. The action of these instruments is admirably adapted to convey every gradation of the player's touch to the strings, and on this account they have been much used by pianists of eminence. Erard died at Passy, on the 5th August, 1831.

ERASMUS, DESIDERIUS, was born at Rotterdam on the night of 27-8 October, and probably in the year 1466. The inscription on his statue, erected in his native place in 1622, names the year 1467; but the epitaph on his tombstone at Basel makes him 69 at the time of his death in July 1536, a reckoning which might be compatible with either year, 1466 or 1467. The latter year is excluded by Erasmus's own statements, which, though inconsistent, agree on the whole best with the year 1466 (see *Ep.* 51, *append.*) His father's Christian name was Gerhard, of which Erasmus is meant for a Greek, and Desiderius for a Latin, rendering. He had no proper surname, not having been born in wedlock. His father provided for his education as long as he lived, placing him first as chorister in the cathedral school of Utrecht, and afterwards removing him to Deventer, of which school the celebrated teacher Alexander Hegius was at that time master. But Erasmus was too young—he left Deventer at 13—to have come much under the instruction of the head-master.

Both his father and his mother dying young, Erasmus was left to the care of three guardians, who endeavoured to force him into a convent. They sent him for three years to a conventual preparatory school at Bois-le-duc (Hertogenbosch), and afterwards so far overcame his resistance that he entered upon the novitiate in a house of the regular canons of St Augustine, at Stein, near Gouda. He made his profession here in 1486, at 19; and was afterwards ordained priest by the bishop of Utrecht. Erasmus had no vocation for the devotional exercises of convent life, and was disgusted with the society of the monks,—coarse, ignorant, and illiterate. His aspiration was to escape to some university where he might study. From the very first, the love of letters was the one ruling motive of his life. An unexpected chance brought him deliverance. Henri de Bergues, bishop of Cambrai, took him to be his secretary. With the permission of the prior of Stein, and the consent of the general of the order and of the ordinary, the bishop of Utrecht, Erasmus left the convent. After a short stay with his new patron the bishop of Cambrai, and with funds sparingly supplied by him, Erasmus entered the college of Montaigu in the university of Paris. Of the revolting economy of this college in respect of food and lodging he has left a graphic account in the *Colloquies* (Icthyophagia): "I carried nothing away from it," he says, "but a body infected with disease, and a plentiful supply of vermin." Rabelais, it will be remembered, has recorded a similar experience.

To eke out his scanty means he took pupils. With one of these, Lord Mountjoy, he came to England in 1497. According to Anthony Wood, he spent three years, 1497 to 1499, in Oxford. Many of the biographers make him return to Paris in 1498; but the chronology of this part of Erasmus's life is confused. It is certain that he resided some time in Oxford, having a room in a small Augustinian house called St Mary's College, in New-inn-hall Lane, and either there or in London made the acquaintance of the few Englishmen who were distinguished for learning, Colet, Grocyn, Linacer, Latimer, Sixtinus. In 1499 he was again in Paris, then at Orleans, then at St Omer's in the Netherlands, and for the next five years he seems to have been continually on the move between France and Holland, his longest sojourn being at Louvain. In these years he had a hard struggle with poverty, supporting himself partly by pupils, partly by dedications. He wrote and

delivered a Latin oration on the occasion of the reception of the archduke Philip at Brussels in 1504, for which he got a handsome fee. In April 1506 we find him again in England, first in London, and becoming acquainted with More and Warham, then at Cambridge, performing the exercises for the divinity degree, and commencing B.D. "The *Athente Cantabrigienses*" of Cooper make him take the degree of D.D. at the university, but this is an error. His stay in England was not long, as he found opportunity to carry out a long cherished project of a journey to Italy. Want of funds had hitherto been the obstacle; "I have a longing to visit Italy," he wrote in 1498, "but it is not easy to fly without wings." He was engaged to escort the two sons of Baptista Boyer, physician to Henry VII., as far as Bologna. In September 1506 he was at Turin, and took the degree of D.D. in that university. He passed the winter of 1506-7 at Bologna, where he was witness of the triumphal entry of Julius II., and where he made acquaintance with Paulus Bombasius and Scipio Carteromachus (Forteguerri). Here he obtained a papal dispensation permitting him to lay aside the dress of his order, though the story of his being mistaken for a plague-doctor in consequence of wearing it is justly dismissed by Drummond as a pleasant fiction. He visited Venice, where he stayed some time, for the purpose of passing through the press of Aldus a second and greatly enlarged edition of his *Adagia*. Here he was domesticated in the house of Asulanus, and made the acquaintance of the circle of learned men who were clustered round the Aldine press,—Marcus Musurus, Aleander, Baptista Egnatius, &c.

In 1508 he removed to Padua, where he spent the winter as tutor to Alexander Stewart, natural son of James IV., king of Scotland. Father and son fell together, not long after, at Flodden. In the early spring of 1509 the tutor and pupil removed to Siena, and from Siena Erasmus went on to Rome. As his reputation had gone before him, he was received wherever he came with marks of distinction. But he learnt nothing from intercourse with the Italian literati; the Renaissance had already spent itself, and Erasmus complains "In Italia frigent studia, fervent bella." He had various offers of preferment, but a letter from Lord Mountjoy announcing the death of the king of England, April 1509, and magnifying the favourable disposition of the young sovereign Henry VIII. towards Erasmus, and towards learning in general, determined his return to this country. From London, where he was the guest of Thomas More, and where he wrote his *Encomium Morie*, he moved to Cambridge, whither he was invited by John Fisher, bishop of Rochester, and lodged in Queen's College, of which Fisher was president. By Fisher's interest, he was appointed Lady Margaret's professor of divinity, and afterwards regius reader of Greek. From his mention of the grammars of Chrysoloras and of Gaza as the text books on which he lectured, it may be inferred that the study of Greek was still in its infancy in that university. Gibbon's sarcasm that "Erasmus learned Greek at Oxford and taught it at Cambridge" (*Hist.*, ch. 66) has just this foundation.

The stipends of these chairs were small, and Erasmus refused to take fees from students mostly very poor. He lived upon presents from wealthy ecclesiastics. Archbishop Warham was his principal patron. Erasmus says, "He has given me a living worth a hundred nobles, and changed it at my request for a pension of one hundred crowns. Within these few years he has given me more than four hundred nobles without my asking; one day he gave me one hundred and fifty. From other bishops I have received more than one hundred. Lord Mountjoy has appointed me a pension of one hundred crowns." He got fifteen

angels from Colet for a dedication. He, says, in the *Compendium Vitæ*, that if the promises made to him had been performed he would have passed the rest of his days in England. But in this he perhaps deceived himself. At this period of his life, and till he was turned fifty, the agitation of locomotion, new places, and fresh faces were a necessity to him. An over-excited nervous sensibility was at the bottom of this feverish restlessness. In the autumn of 1513 he bade farewell to England, visited Lord Mountjoy at the Castle of Ham in Picardy, of which he was governor, and passed by the Rhine to Strasburg. Here he made the acquaintance of Wimpeling, Sebastian Brant, and the young Johann Sturm. He employed his time on board the tow-boat by which he leisurely ascended the river in correcting his "*Commentarii de duplici copia*," &c., for a new edition. To Basel, which was to be the home of his old age, he was attracted by the reputation of its press. But he met with such a hearty welcome from Froben and Amerbach, and found so agreeable a circle of men of learning, that he passed the whole winter 1514-15 here. The bishop of Basel, Christoph von Utenheim, was so much pleased with him that he sought to domesticate him in his house; he made the acquaintance of Zwingli and of Hans Holbein, and drew round him a circle of young students full of ardour for learning, and consequently of admiration for Erasmus,—Glareanus, Eccolampadius, Beer, Myconius, Sapidus, and, above all, Beatus Rhenanus, who became his attached disciple and biographer.

Though from this time forward Basel became the centre of occupation and interest for Erasmus, yet for the next seven years he was in constant movement, from Basel to Flanders, thence to England in 1517, and back again to Basel. Offers of church preferment in various countries continued to be made to him. But his circumstances had improved so much, by pensions, the presents which were showered upon him, and the sale of his books, that he was now in a position to refuse all proposals which would have interfered with his cherished independence. Aware how necessary it was, if he would maintain his literary supremacy, to keep on good terms with the powerful in church and state, and therefore cautious not to give offence in word or act, he was yet most anxious to avoid dependence on any individual. It suited him to be always competed for, and never to sell himself. The general ardour for the restoration of the arts and of learning created an aristocratic public, of which Erasmus was supreme pontiff. Luther spoke to the people and the ignorant; Erasmus had the ear of the educated class. His friends and admirers were distributed over all the countries of Europe, and presents were continually arriving from small as well as great, from a donation of 200 florins, made by Pope Clement VII., down to sweetmeats and comfits contributed by the nuns of Cologne (*Ep.* 666). From England, in particular, he continued to receive supplies of money. In the last year of his life, Cromwell sent him 20 angels, and Archbishop Crammer 18. Though Erasmus led a very hard-working and far from luxurious life, and had no extravagant habits, yet he could not live upon little. The excessive delicacy of his constitution exacted some unusual indulgences. He could not bear the iron stoves of Germany, and required an open fireplace, or a porcelain stove, in the room in which he worked. He was afflicted with the stone, and obliged to be particular as to the wine he drank. The white wines of Baden or the Rhine did not suit him; he could only drink those of Burgundy or Franche-Comté. No more acceptable present could be offered him than a cask of the light-red wine of the Jura. He could neither eat nor bear the smell of fish. "His heart," he said, "was Catholic, but his stomach