

**EQUITY IN PENNSYLVANIA: A
LECTURE DELIVERED BEFORE
THE LAW ACADEMY OF
PHILADELPHIA, FEBRUARY 11,
1868**

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Equity in Pennsylvania: A Lecture Delivered Before the Law Academy of Philadelphia,
February 11, 1868 by William Henry Rawle

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WILLIAM HENRY RAWLE

**EQUITY IN PENNSYLVANIA: A
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THE LAW ACADEMY OF
PHILADELPHIA,
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✓ *EQUITY IN PENNSYLVANIA.*

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A LECTURE

DELIVERED BEFORE THE

LAW ACADEMY OF PHILADELPHIA,

FEBRUARY 11, 1868.

BY

WILLIAM HENRY RAWLE,

ONE OF ITS VICE PROVOSES.

WITH AN

APPENDIX,

BEING THE

REGISTRAR'S BOOK OF GOVERNOR KEITH'S COURT
OF CHANCERY.

PRINTED FOR THE LAW ACADEMY.

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Extract from the Minutes of The Law Academy.

Resolved, That a Committee be appointed to wait upon William Henry Rawle, Esq., to request him to permit the publication of his Address delivered before The Law Academy on the 11th inst:—and further,

Resolved, That the Record of Governor Keith's Court of Chancery be published as an appendix to Mr. Rawle's Address.

Feb. 12, 1868.

SIR,

The undersigned, a Committee appointed by The Law Academy, respectfully solicit of you for publication your Address delivered before that body on Tuesday evening, February 11th.

SAML. S. HOLLINGSWORTH,
W. W. WILTBANK,
GEO. W. SPIESE,

Committee.

Feb. 13, 1868.

TO WM. HENRY RAWLE, ESQ.,

710 WALNUT STREET,
PHILADELPHIA, February 17, 1868.

GENTLEMEN,

I send you the manuscript of my Address before The Law Academy, in compliance with your request.

Through the kindness of the Attorney-General, the consent of the State Department to the publication of the Registrar's Book has been procured.

Very respectfully yours,

WM. HENRY RAWLE.

MESSERS. SAML. S. HOLLINGSWORTH,
W. W. WILTBANK,
GEORGE W. SPIESE,

Committee, &c. &c.

ADVERTISEMENT.

AFTER the manuscript of this lecture had been given to the Law Academy, it was suggested that the interest of its subject might warrant a more extended publication than the limited number of copies printed for the use of its members. The Committee of the Academy has, therefore, made such an arrangement with the publishers as enables them to present the lecture in this form to the profession.

EQUITY

IN

PENNSYLVANIA.

MORE than forty years ago, the Provost and Vice-Provost of this, our Law Academy, appointed as the subject of a dissertation to be prepared during vacation, "Equity in Pennsylvania"—under which head were to be considered the nature and extent of the Chancery Powers of our State Judiciary, and the manner in which they were exercised. "The subject is to be treated," said the Faculty, "in an historical as well as legal point of view, and the whole reduced to a system under proper divisions. The question whether, in Pennsylvania, a separate court of chancery is indispensably necessary, is to be considered, and in case the writer maintains the negative, he is to point out the manner in which it may be supplied."

The modest essay which, in answer to this call, was submitted by a student at law in his twentieth year, now forms part of our legal literature. Its merits have been recognized on both sides of the

Atlantic; it is read by every student; and you gentlemen of the Law Academy, have especial reason to be proud that the "Essay on Equity in Pennsylvania, by Anthony Laussat, jr.," claims its origin as an academical exercise of your Institution. The author of the essay, and those who then composed the faculty, sleep in their honored graves; another generation, and still another, have succeeded them, and the system itself, which, in this little book, was so clearly traced and so ably defended, has also yielded to the advance of time. There may, therefore, in answer to your kind invitation to address you, be a peculiar propriety in attempting to take up, even though, *longo intervallo*, the subject which has never since received a connected consideration.

All of you are aware of the wide distinction between equitable principles, and equitable jurisdiction—between the doctrines of equity, which, at this day, are not less consistent and harmonious than are those of the common law, and the peculiar means by which they are enforced through the process of a court of chancery. It has fallen to the lot of Pennsylvania, through necessity, to have blended together, in a single tribunal, equitable principles and equitable jurisdiction, and to have dispensed those *principles* through the medium of common law forms. The administration

of justice has, under this system, grown up from its youth to its manhood, and now, after a century of trial, while we still retain that system, we have, of late, gradually but liberally, vested in our courts equitable *jurisdiction*, to be exercised according to the course and practice of chancery. Thus, at the end of a century, we have, by our course of legislation, frankly acknowledged that to dispense equity through such remedies alone as the common law affords must, in many cases, amount to a denial of justice.

It is not a little singular that upon the other side of the Atlantic—in that country from which we derived our laws—it has at last been acknowledged that to administer equity in a court of equity alone, and solely according to the course and practice of chancery, must, in many cases, be equally a denial of justice. Thus, while legislation has, in the one country, been directed to the administration of equitable principles in a court of equity, it has, in the other, been directed to the administration of those principles, in certain cases, in the courts of common law. And thus both countries have, after a long trial of each system, approached each other, though over widely different roads. It cannot be unprofitable to follow the path which has thus been trod by our ancestors, and by those of our own time.