

PREFACE

TO THE SECOND EDITION.

MORE than twenty years have passed away since I first wrote and published the following treatise: and in that space of time great changes have been effected in the law—and a great volume of decisions bearing on the subject of this essay has been pronounced.

I must expect a severer criticism for this second edition than that with which the first edition was received: but I am sure that the kindness which I have always received from the members of my profession will not fail me now.

There is one notion often expressed with regard to works written or revised by authors on the Bench which seems to me in part at least erroneous—the notion, I mean, that they possess a quasi-judicial authority. It is hardly enough remembered how different are the circumstances under which a book is written and a judgment pronounced, or how much the weight and value of the latter are due to the discussions at the bar which precede the judgment.

I have revised or re-written or written the following parts of the present volume, viz.:—

- PART I.—The whole.
- „ II.—The whole, except part of Chapter II.
- „ III.—The whole, except Chapter XXV.
- „ V.—Chapter V.
- „ VI.—The whole, except Chapter IX.

The XIth Chapter of Part III. (that on the Statute of Frauds) was originally revised for me by another hand and may retain some traces of a difference of style: and in other parts I received some assistance from my former pupil and friend, the late Mr. H. W. May. By far the greater part of