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PREFACE.

THE preparation of the present edition was entrusted to the Editor as long ago as March, 1913, but the work has been unavoidably delayed by the war. At that time it was desired by the owners of the copyright that an attempt should be made to reduce the size of the book; but this has unfortunately been found to be impossible consistently with the preservation of the Author's work. It remains for some future editor to consider whether a portion of that work should not be sacrificed.

About the present edition there is not much to say. One or two points may, however, be mentioned.

The discovery, since the publication of the fifth edition, of fresh authority—in particular the illuminating judgment of Chief Justice Griffith in *Hynes v. Byrne*—has, in the Editor's opinion, shown that the view taken in the fifth edition, and by some other text writers, of innocent misrepresentation cannot be supported. The truth now appears to be that innocent misrepresentation is not a separate head of law, but merely a branch of the law of Mistake; accordingly that no such misrepresentation can be "material" unless it nullify the assent of the other party. It had been supposed that in these cases Equity gave a less strict meaning to the term "material" than was attached to it by the Common Law as stated by Mr. Justice Blackburn in *Kennedy's Case*; so that, by the operation of the Judicature Act, the equitable rule prevailed. It seems to be reasonably clear that the Common Law and equitable rules are identical in all cases. But the reader must judge for himself, on reading the argument in the chapter on Misrepresentation, where—for the first time in any text-book, so far as the Editor is aware—the subject has been elaborately considered. The Editor commits himself at least to this proposition, that, to put any other interpretation upon "material" than that suggested is, so far as sales of "goods" are concerned, entirely inconsistent with the statutory definition of "warranty," and leads to an absurd result.

No reason has been found for the modification of the opinion stated in the fifth edition that Mr. Benjamin's treatment of the