PREFACE TO THE SECOND EDITION.

Harrington's Reports having for some time been out of print, the undersigned, at the request of Mr. Walker, has taken charge of a new edition. In introducing it to the reader, perhaps a few additional words regarding the court of chancery of this State may not be inappropriate. In the year 1846, during the fever for radical changes in the law which prevailed extensively throughout the country, and which affected considerably the politics of this State, a provision was incorporated in the revision of the statutes then being made, and which was to take effect March 1, 1847, abolishing the distinctive equity court. Thereupon Chancellor Manning resigned, and the Hon. Elon Farnsworth was a second time called upon to perform the duties of chancellor for the brief period which would elapse before the new revision would take effect. Chancellor Manning was thoroughly familiar with equity law, and fully imbued with the spirit of its principles; and his disposition to insist upon correct practice was well understood, and had an important influence in educating a good chancery bar. When that clear-headed, upright and conscientious judge withdrew from tha bench, and when his temporary successor followed him, the excellent and uniform chancery practice which had grown up soon fell into a disorder from which it has never recovered.

The principal reason for this was the organization of the court of chancery which was substituted by the Revised Statutes. That consisted in making the several circuit courts courts of equity, and expecting and requiring them to administer equity law under the established forms and according to the settled principles. Aside from the improbability of finding in every circuit a lawyer who was at the same time sufficiently versed in the law administered in the court of chancery to fit him to be chancellor, and also willing to accept the position of circuit judge at the meager compensation which has always been paid in this State, there was the further difficulty that uniformity of practice was no longer to be expected when we had eight or more equity judges administering justice independently, and with no common tribunal to supervise their proceedings. For though the appeal to the Supreme Court in chancery cases was

still retained, yet that remedy would do very little towards harmonizing the practice, not merely because it was only allowed from final decrees or orders, but also because most matters of practice are matters of discretion, and not subject to review at all under our statutes. It is, therefore, no impeachment of the learning or ability of the circuit judges, many of whom have been eminent and able lawyers, to say that chancery practice has fallen into confusion, and that few lawyers now even pretend to be thoroughly familiar with either the pleading or the practice of that court. Whether the cause of justice has suffered in consequence is a question the discussion of which we shall not enter upon in this place.

That the independent court of chancery had become unpopular in 1846 is perhaps sufficiently proved by its abrogation; but that it became so mainly in consequence of abuses supposed immemorially to have inhered in chancery practice, particularly in England, rather than because any were complained of here, we believe to be true. No stain ever attached to the judicial ermine as worn by Chancellors Farnsworth and Manning; and the spontaneity with which the people called upon the latter to occupy one of the seats on the bench of the independent Supreme Court when that tribunal was organized, sufficiently evinced their confidence in his learning, industry, impartiality and integrity, and their appreciation of his former judicial labors.

In preparing for the press a new edition of Harrington's Reports, many difficulties were encountered. That gentleman, as is above stated by Mr. Walker, had deceased before his work was completed, and there are many evidences that much of it had been left to the hands of clerks imperfectly qualified to perform it. An effort has been made to improve some of the statements of cases, but this has not always been practicable without access to original papers not now attainable. Some improvement, it is nevertheless hoped, has been introduced, particularly in the head notes. And the references which are made to the subsequent cases bearing upon the same or analogous questions, it is believed will be found a convenience to the practitioner. The original paging has been preserved, for convenience in tracing former references.

THOMAS M. COOLEY.

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