CHAPTER 5.

An Act to give to the Trustees of the will of Sir Richard Colt Hoare Baronet deceased power to sell property settled by the Testator. [18th August 1882.] A.D. 1882.

WHEREAS Sir Richard Colt Hoare of Stourhead in the county of Wilts Baronet (herein-after called the testator) was at the date of his will herein-after mentioned and thenceforth continued until his death seized for an estate of fee simple in possession (subject to certain incumbrances which have since been paid off) of large estates in the counties of Wilts Somerset and Dorset and was possessed of certain books paintings drawings prints statues busts urns and other antiquities maps charts cabinets medals articles of virtu plate china furniture and other chattels in and about his mansion house at Stourhead aforesaid and the gardens and pleasure grounds thereto belonging:

And whereas the testator being so seized and possessed as aforesaid duly made his last will dated the 31st day of October 1836 and thereby gave and devised all and singular his real estate (not being freeholds held by him for any life or lives) to the use of his half-brother Henry Merrik Hoare and his nephew Henry Charles Hoare their executors administrators and assigns for the term of five hundred years upon the trusts therein-after declared and subject thereto to the use of the testator's half-brother Henry Hugh Hoare during his life with remainder to the use of Hugh Richard Hoare the eldest son of the said Henry Hugh Hoare during his life with remainder to the use of the sons of the said Hugh Richard Hoare and the sons of such of them as should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of Henry Charles Hoare the second son of the said Henry Hugh Hoare during his life with remainder to the use of Henry Ainslie Hoare the eldest son of the said Henry Charles Hoare now Sir Henry Ainslie Hoare Baronet during his life with remainder to the use of the first and every other son of the said Henry Ainslie Hoare successively according to

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seniority of age and priority of birth in tail male with remainder to the use of each other son of the said Henry Charles Hoare and the sons of such of them as should be born during the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of Richard Hoare third son of the said Henry Hugh Hoare during his life with remainder to the use of Hugh Richard Fahie Hoare (son of the said Richard Hoare) during his life with remainder to the use of the first and every other son of the said Hugh Richard Fahie Hoare as therein mentioned with remainder to the use of each other son of the said Richard Hoare and the sons of such of them as should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of Henry Arthur Hoare the fourth son of the said Henry Hugh Hoare during his life with remainder to the use of each son of the said Henry Arthur Hoare who should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease during the life of each such son with remainder to the use of the sons of each such son as therein mentioned with remainder to the use of the first and every other son of the said Henry Arthur Hoare who should be born after and not be en-ventre-sa-mere at the time of the testator's decease successively according to seniority of age and priority of birth in tail male with remainder to the use of each son of the said Henry Hugh Hoare who should thereafter be born in the testator's lifetime or be en-ventre-sa-mere at the testator's decease during the life of each such son with remainder to the use of the sons of each such son as therein mentioned with remainder to the use of every son of the said Henry Hugh Hoare who should be born after and not be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of the testator's half-brother Charles Hoare during his life with remainder to the use of the sons of the said Charles Hoare and the sons of such of them as should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of the testator's half-brother the said Henry Merrik Hoare during his life with remainder to the use of the sons of the said Henry Merrik Hoare and the sons of such of them as should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of the testator's half-brother Peter Richard Hoare during his life with remainder to the use of the testator's nephew Peter Richard Hoare (the eldest son of Peter Richard Hoare aforesaid) during his life with remainder to the use of each son of the said Peter Richard Hoare the nephew who should

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be born in the testator's lifetime or be en-ventre-sa-mere at the testator's decease during the life of each such son with remainder to the use of his (such son's) first and every other son successively according to seniority of age and priority of birth in tail male so that the elder of such last-mentioned sons and his first and every other son successively in tail male should be preferred to and take before the younger of such sons and their respective first and other sons in tail male with remainder to the use of the first and every other son of the testator's said nephew Peter Richard Hoare who should be born after and should not be en-ventre-sa-mere at the time of the testator's decease successively according to seniority of age and priority of birth in tail male with remainder to the use of the testator's nephew Richard Peter Hoare (second surviving son of the testator's said brother Peter Richard Hoare) during his life with remainder to the use of the sons of the testator's said nephew Richard Peter Hoare and the sons of such of them as should be born during the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease as therein mentioned with remainder to the use of each son of the testator's said brother Peter Richard Hoare who should thereafter be born and the sons of such of them as should be born in the testator's lifetime or be en-ventre-sa-mere at the time of the testator's decease with remainder to the testator's own right heirs. And after a devise to Sir Thomas Dyke Acland of Kilverton in the county of Devon Baronet and Henry Hoare of Staplehurst in the county of Kent Esquire upon trusts for preserving the contingent remainders therein-before limited the testator as to and concerning the said term of five hundred years therein-before limited to the said Henry Merrik Hoare and Henry Charles Hoare their executors administrators and assigns declared that the same was so limited to them upon trust that the said Henry Merrik Hoare and Henry Charles Hoare or the survivor of them or the executors or administrators of such survivor should by mortgage of the hereditaments comprised in the said term of five hundred years raise such sum or sums of money as should be sufficient to pay all his just debts and funeral and testamentary expenses including the expenses of executing the trusts of the said term and also certain bond debts of his deceased son therein mentioned and such legacies and annuities as the testator should bequeath by any codicil or codicils to his said will and should pay and apply the money so to be raised accordingly and so as to exonerate his personal estate from the payment of all such debts funeral and testamentary expenses and legacies. And by the said will it was provided that when the trusts of the said term of five hundred years should have been fully performed or satisfied or have become unnecessary or

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incapable of taking effect and the costs incurred by the trustees in or about the execution of such trusts should have been fully paid or satisfied the same term as to the whole of the hereditaments therein comprised or so much thereof as should not have been mortgaged for the purposes aforesaid as the case might be should cease determine and be void. And by his said will after giving to his (the testator's) nephews and grand-nephews who should be tenants for life of the hereditaments therein-before devised certain powers for appointing jointure rentcharges in favour of their wives and subjecting the same hereditaments to portions for their younger children and after giving certain powers for leasing all or any part of the said hereditaments for any term of years not exceeding twenty-one years the testator provided and directed that it should be lawful for the said Sir Thomas Dyke Acland and Henry Hoare and the survivor of them and his executors or administrators at any time or times with the consent and approbation of the said Henry Hugh Hoare during his life and after his decease for the person for the time being beneficially entitled in possession under the limitations therein-before contained to the first estate of freehold or inheritance in the hereditaments therein-before devised if of full age but if not with the consent of the guardians or guardian for the time being of such person (such consent to be testified by some writing or writings under his or their hand or hands) absolutely to make sale and dispose of the said hereditaments or any part or parts thereof (except the manor and advowson of Stourton and also the capital messuage or mansion house of Stourhead outbuildings courts yards gardens pleasure grounds orchards park demesne and other lands thereunto belonging and also except as therein excepted) and the testator thereby declared that the moneys to arise by any sale or sales under that power or proviso or so much thereof as the said Sir Thomas Dyke Acland and Henry Hoare or the survivor of them his executors or administrators should think proper should be paid in or towards the discharge of any principal moneys which for the time being should be charged upon the hereditaments which should be sold as aforesaid or upon any other of the hereditaments which for the time being should be subject to the existing uses of his said will and any costs charges and expenses attending or incident to such discharge or the sale or sales which should be so made as aforesaid. And the testator further directed that when all or any part of the said hereditaments thereby made saleable as aforesaid should be sold in pursuance of his said will the clear surplus of the moneys which should arise by such sale or sales after paying the costs charges and expenses attending or incidental to such sale or sales and after paying off such charges and incumbrances as last

therein-before mentioned if any such charges and incumbrances should be so paid as aforesaid and the expenses attending the same should with all convenient speed be laid out and invested by the said Sir Thomas Dyke Acland and Henry Hoare or the survivor of them his executors or administrators with the consent and approbation of the person who would for the time being under the limitations of his said will be beneficially entitled to the first estate of freehold or inheritance of and in the hereditaments to be purchased as therein-after mentioned if the same had been purchased if such person should be of full age but if not then with the consent or approbation of the guardian or guardians of such person in the purchase of other manors farms lands tenements or hereditaments being of freehold tenure or of copyhold or customary tenure or leasehold held for any life or lives or leasehold for years absolute such copyhold or customary or leasehold property being situate adjoining or near to or convenient or desirable to go along with some of the freehold hereditaments for the time being subject to the subsisting uses of his said will and all such freehold and other property so to be purchased being in possession or subject to leases only and free from all other incumbrances (except fee farm or other rents or other usual payments). And that the manors messuages farms lands tenements and hereditaments so to be purchased as aforesaid being of freehold or copyhold or customary tenure should be forthwith conveyed assured and settled to such and the same uses upon such and the same trusts and to and for such and the same ends intents and purposes and with under and subject to such and the same powers provisoes and declarations as were in and by his said will limited declared and contained of and concerning the said hereditaments thereby made saleable as aforesaid or as near thereto as the deaths of parties and other contingencies would admit of and that if all such tenements lands and hereditaments being leasehold for lives or for years absolute or determinable on any life or lives as should be purchased as aforesaid should be respectively conveyed and assured according to the nature thereof unto and to the use of the said Sir Thomas Dyke Acland and Henry Hoare or the survivor of them or the trustees or trustee for the time being acting under the trusts or powers of his said will for which they were thereby appointed trustees and to their or his heirs executors administrators and assigns upon and for such and the same trusts intents and purposes and with under and subject to such of the same powers provisoes and declarations as were therein-after expressly and by reference declared and contained of and concerning the leasehold property for a life or lives or for years absolute or determinable upon a life or lives therein-after devised and

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bequeathed. And the testator thereby further directed that in the meantime and until the moneys which should arise by such sale or sales as aforesaid should be applied in such purchase or purchases as were therein-before authorised it should and might be lawful to and for the said Sir Thomas Dyke Acland and Henry Hoare or the survivor of them his executors or administrators by and with such consent and approbation as last aforesaid to lay out or invest such moneys in their or his names or name in some or one of the parliamentary stocks or funds or at interest upon Government or real securities and from that time with such consent and approbation to alter vary and change such securities or any of them for others of the same or the like nature as often as should be thought expedient and that the dividends and interest or annual produce of such stocks funds and securities should from time to time go and be paid and applied to such person or persons and for such intents and purposes and in such manner as the rents and profits of the hereditaments so to be purchased and settled as aforesaid would have gone and been payable and applicable unto in case such purchase or purchases and settlement had then been actually made. And by the said will after devising and bequeathing all his hereditaments holden under any lease or leases for a life or lives or for years to trustees upon trusts corresponding to the uses therein-before limited of the freehold hereditaments therein-before devised the testator bequeathed all the books paintings drawings prints statues busts British urns and other antiquities maps charts cabinets medals articles of virtu plate china and household furniture which should be in or about the said mansion house and the gardens and pleasure grounds thereto belonging unto the said Henry Merrik Hoare and Henry Charles Hoare their executors and administrators in trust to permit the same books paintings and other effects (all of which are herein-after called the said heirlooms) to remain in and upon the said mansion gardens and pleasure grounds where they should respectively be at the time of his decease and to go along and be held with the same mansion gardens and pleasure grounds and to be used and enjoyed by the person or persons who for the time being should by virtue of or under that his will be beneficially entitled to the possession of the same mansion house gardens and pleasure grounds so long as the rules of law and equity would permit subject nevertheless to the necessary removal and substitution of furniture and other perishable articles but so nevertheless and the testator thereby directed that no tenant in tail by purchase of his aforesaid devised estates should become absolutely entitled to such heirlooms until he should attain the age of twenty-one years unless he should die under that age leaving some male of his body

living at his decease or born in due time afterwards. And the testator thereby directed that as soon as conveniently might be after his decease and also from time to time when occasion should require the said Henry Merrik Hoare and Henry Charles Hoare or the survivor of them his executors or administrators should cause a schedule or inventory to be made and taken of all the said heirlooms and should cause two copies to be made of every such schedule or inventory and should from time to time procure such person as should for the time being be entitled to the use and enjoyment of the same heirlooms to sign such copies respectively one of which should be left with such person and the other of them should be kept by such trustees or trustee. And the testator thereby appointed the said Henry Merrik Hoare and Henry Charles Hoare executors of his will:

And whereas the testator made two codicils dated respectively the 1st day of November 1836 and the 9th day of December 1837 to his said will but such codicils did not in any way affect the dispositions aforesaid:

And whereas the testator died on the 19th day of May 1838 without having revoked or further altered his said testamentary disposition and his said will and two codicils were on the 6th day of July 1838 duly proved by the said Henry Merrik Hoare and the said Henry Charles Hoare:

And whereas the said Henry Hugh Hoare (afterwards Sir Henry Hugh Hoare Baronet) died on the 17th day of August 1841 having had eight sons and no more namely the said Hugh Hoare Hugh Richard Hoare (afterwards Sir Hugh Richard Hoare Baronet) the said Henry Charles Hoare the said Richard Hoare Henry Hoare Arthur Hoare the said Henry Arthur Hoare and Henry Montague Hoare:

And whereas the said Hugh Hoare the said Henry Hoare the said Arthur Hoare and the said Henry Montague Hoare died infants and unmarried:

And whereas the said Hugh Richard Hoare (afterwards Sir Hugh Richard Hoare Baronet) died on the 10th day of January 1857 without having ever had a son:

And whereas the said Henry Charles Hoare died on the 15th day of January 1852 having had two sons and no more namely Henry Ainslie Hoare now Sir Henry Ainslie Hoare Baronet and Hugh Merrik Hoare who was born in the year 1825 and died in the year 1826:

And whereas the said Sir Henry Ainslie Hoare has had one son and no more Charles Peregrine Louis Hoare who died on the 4th day of August 1854 an infant of the age of eight years:

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And whereas the said Richard Hoare died on the 5th day of December 1850 having had one son and no more namely the said Hugh Richard Fahie Hoare:

And whereas the said Hugh Richard Fahie Hoare died on the 29th day of March 1840 an infant and without ever having had a son:

And whereas the said Henry Arthur Hoare died on the 6th day of November 1873 having had one son and no more namely Henry Hugh Arthur Hoare who was born on the 19th day of November 1865 and is the first tenant in tail of the said hereditaments devised by the said will:

And whereas the said Charles Hoare half-brother of the testator died on the 16th day of November 1851 without ever having had a son:

And whereas the said Henry Merrik Hoare half-brother of the testator died on the 22nd day of June 1856 without ever having had a son:

And whereas the said Peter Richard Hoare half-brother of the testator died on the 10th day of September 1849 having had six sons and no more namely the said Peter Richard Hoare Henry Edward Hoare the said Richard Peter Hoare and Charles George Hoare Hugh Hoare and Hugh Thomas Chetham Hoare:

And whereas the said Peter Richard Hoare nephew of the testator died on the 30th day of May 1877 having had two sons and no more namely Peter Merrik Hoare who was born on or about the 20th day of October 1843 and Charles Arthur Richard Hoare who was born on or about the 18th day of May 1847:

And whereas the said Peter Merrik Hoare is living and has had two sons and no more namely Peter Arthur Marsham Hoare who was born on the 1st day of September 1869 and is living and Henry Lennox Merrik Noel Colt Hoare who was born on the 14th day of May 1871 and is living:

And whereas the said Charles Arthur Richard Hoare is living and has had three sons and no more namely Hugh Richard Francis Hoare who was born on the 13th day of April 1868 and died on the 9th day of November 1880 Wilfrid Arthur Richard Hoare who was born on the 17th day of March 1876 and is living and Reginald Arthur Hoare who was born on the 13th day of July 1878 and is living:

And whereas the said Henry Edward Hoare died on or about th 9th day of April 1835 without having ever had a son:

And whereas the said Richard Peter Hoare died on or about t 3rd day of April 1846 without having ever had a son:

And whereas the said Charles George Hoare died on or about the 27th day of February 1829 without having ever had a son:

And whereas the said Hugh Hoare died on or about the 21st day of May 1811 without ever having had a son:

And whereas the said Hugh Thomas Chetham Hoare died in the month of November in the year 1830 without having ever had a son:

And whereas the real estates devised by the testator's will are now subject to a mortgage (which was created by his executors pursuant to the powers vested in them by the will) whereby a sum of £21,757 3*s.* 11*d.* is secured upon the said estates with interest on such sum at the rate of 4 per centum per annum:

And whereas by an order of the High Court of Justice Chancery Division dated the 25th day of February 1882 made on the petition of the said Sir Henry Ainslie Hoare in the matter of the trusts of the will of Sir Richard Colt Hoare deceased and in the matter of the Trustee Act 1850 Algernon Augustine de Lille Strickland and James William Baillie were appointed trustees of the said will for all the purposes for which the said Henry Merrik Hoare and Henry Charles Hoare were appointed trustees thereof and all the real and personal estate by the said will devised and bequeathed to the said Henry Merrik Hoare and Henry Charles Hoare subject nevertheless and without prejudice to the said mortgage were duly vested in the said Algernon Augustine de Lille Strickland and James William Baillie as such new trustees as aforesaid and it was ordered that the costs of the said Sir Henry Ainslie Hoare and Henry Hugh Arthur Hoare of and incident to that petition should be taxed as therein mentioned and paid out of the trust estate:

And whereas the gross annual rental of the estates settled as aforesaid by the will of the said Sir Richard Colt Hoare (apart from the mansion house known as Stourhead House and the gardens and pleasure grounds usually held therewith) has been reduced since the 1st day of January 1880 by upwards of £2,700 per annum in consequence of the agricultural depression and the rents so reduced are many of them neither paid punctually nor in full and still from time to time as the farming tenancies expire or are determined by notice further reductions are demanded. And the said Sir Henry Ainslie Hoare being unable with so reduced an income from the said estates to meet the constantly increasing requirements of intending tenants is in danger of having farms thrown on his hands and as he could not under present circumstances afford to stock or cultivate such farms they may have to go out of cultivation to the permanent injury of the settled estates unless the burdens on the said estates can be reduced and the income thereof improved:

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And whereas the said Sir Henry Ainslie Hoare has for some months past been endeavouring to let the said mansion house because he has no longer sufficient income from the said settled estates to allow of his living there but at present he has not succeeded in obtaining any eligible offer for taking the same and in fact the great value of the pictures books china and other heirlooms of a perishable nature in the said mansion house discourages proposing tenants and greatly enhances the difficulty of effecting a letting to any responsible person:

And whereas the gardens and pleasure grounds surrounding the said mansion house are of great beauty and large extent but the net income enjoyed by the said Sir Henry Ainslie Hoare from the settled estates is and for the last two years has been much too small to allow of his keeping up the gardens and pleasure grounds in suitable order and there is on this account a yearly increasing difficulty in finding a suitable tenant willing to occupy the said mansion house and the said Sir Henry Ainslie Hoare and his family are unable to have proper enjoyment of the same for the like reasons:

And whereas the said heirlooms are estimated to be of the value of £50,000 and upwards and it would be greatly for the advantage of all persons interested therein or in the said settled estate if the said heirlooms could be sold and the proceeds applied and invested as herein-after mentioned:

And whereas the power of sale in the said will contained does not extend to the said heirlooms and it is desirable and for the interest of all parties that power to sell the said heirlooms should be given to the trustees or trustee thereof and should be exercised only with the consent of the said Sir Henry Ainslie Hoare and Henry Hugh Arthur Hoare or the survivor of them the consent of the said Henry Hugh Arthur Hoare during his minority to be signified as herein-after mentioned:

And whereas these objects cannot be obtained without the authority of Parliament:

Therefore Your Majesty's dutiful and loyal subjects the said Sir Henry Ainslie Hoare Algernon Augustine de Lille Strickland and James William Baillie do most humbly beseech Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. This Act may be cited for all purposes as the Stourhead Settled Estates Act 1882.

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Power of sale of heirs looms.

2. It shall be lawful for the said Algernon Augustine de Lille Strickland and James William Baillie or other the trustees or trustee for the time being in whom the said heirlooms shall be vested upon the trusts in the said will declared concerning the same at any time or times hereafter to sell all or any of the said heirlooms with the consent of the said Sir Henry Ainslie Hoare and Henry Hugh Arthur Hoare or the survivor of them the consent of the said Henry Hugh Arthur Hoare during his minority to be given on his behalf by his guardian or guardians.

Disposition of proceeds of sale.

3. The moneys to arise from any such sale as aforesaid shall be applied in the first place in paying the costs and expenses incurred in and about the obtaining and passing of this Act and preparatory or incidental thereto and the costs of and incidental to the said petition to the High Court of Justice and the residue thereof shall be invested in or upon any of the stocks funds and securities upon which trustees are now authorised to invest trust moneys and shall be held upon such trusts and with under and subject to such provisions and declarations as are by and in the said will of the said testator declared and contained of and concerning the said heirlooms and the annual income arising from the said stocks funds and securities shall from time to time be payable and belong to the person who would for the time being have been entitled to the use and enjoyment of the said heirlooms if the same had not been sold: Provided always that the said trustees or trustee shall if so required by the said Sir Henry Ainslie Hoare apply the residue of the said moneys or so much thereof as shall be required for the purpose in paying off the said mortgage debt of twenty-one thousand seven hundred and fifty-seven pounds three shillings and elevenpence and all interest and costs due or payable in respect thereof and shall take a transfer to themselves or himself of all securities for the same and such securities shall be considered a due and proper investment under this Act.

Saving the rights of Her Majesty the Queen and others.

4. Saving always unto the Queen's most Excellent Majesty her heirs and successors and all and every other person and persons bodies politic and corporate and their respective heirs successors executors and administrators (other than and except the several persons who by this Act are expressly excepted out of this general saving) all such estate right title claim and demand whatsoever in upon to or with respect to the said heirlooms or the moneys to arise from the sale thereof or any part thereof respectively as they or every or any of them had before the passing of this Act or could or might have or enjoy in case this Act were not passed.

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Persons bound by the Act.

5. The persons following and their heirs executors administrators appointees and assigns are excepted out of the general saving in this Act contained :—

(A) Sir Henry Ainslie Hoare Baronet :

(B) Every son of the said Sir Henry Ainslie Hoare :

(C) Henry Hugh Arthur Hoare and the heirs male of his body :

(D) Peter Merrik Hoare :

(E) Peter Arthur Marsham Hoare and the heirs male of his body :

(F) Henry Lennox Merrik Noel Colt Hoare and the heirs male of his body :

(G) The third fourth and every other son of the said Peter Merrik Hoare and the heirs male of their respective bodies :

(H) Charles Arthur Richard Hoare :

(J) Wilfrid Arthur Richard Hoare and the heirs male of his body :

(K) Reginald Arthur Hoare and the heirs male of his body :

(L) The third fourth and every other son of the said Charles Arthur Richard Hoare and the heirs male of their respective bodies :

(M) Algernon Augustine de Lille Strickland and James William Baillie and other the trustees or trustee under the said will :

(N) Every person to or upon whom under any of the limitations in the said will contained or under the exercise of any of the powers in the said will contained any estate right title interest claim or demand whatsoever in upon to or with respect to the said heirlooms or the moneys to arise from the sale thereof or any part thereof respectively has already devolved descended or accrued or hereafter shall devolve descend or accrue.

Provided always that this Act shall be in addition to and not in substitution for and shall not exclude the operation of any statutory or other power or right which they the said Sir Henry Ainslie Hoare and Henry Hugh Arthur Hoare or either of them now have or may at any time hereafter have of dealing with the said heirlooms or any of them or the proceeds thereof.

Act not to be Public Act.

6. This Act shall not be a Public Act but shall be printed by the several printers to the Queen's most Excellent Majesty duly authorised to print the statutes of the United Kingdom and a copy thereof so printed by any of them shall be admitted as evidence thereof by all judges justices and others.

LONDON : Printed by GEORGE E. B. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1882.