



## CHAPTER 2.

An Act to confirm a Partition made of certain hereditaments held upon the trusts by the Will of Samuel Brooks, deceased, declared concerning the hereditaments comprised in the Ninth Schedule to the said Will, and the short title of which is intended to be "Brooks' Settled Estates Partition Confirmation Act, 1878."

A.D. 1878.

[8th August 1878.]

WHEREAS Samuel Brooks, late of Whalley House, in the township of Withington, and of the city of Manchester, both in the county of Lancaster, banker, by his last will and testament, dated the first day of November one thousand eight hundred and sixty-one, after devising to his son the said William Cunliffe Brooks, his heirs and assigns, the hereditaments comprised in the First Schedule to his will, and giving certain directions with reference to the same and other specific hereditaments, and devising unto his said son William Cunliffe Brooks and James Dugdale and William Norris, their heirs and assigns, the hereditaments comprised in the Second Schedule to his will, upon trusts in favour of his son Thomas Brooks, and others not material to be herein set forth, he devised unto the said William Cunliffe Brooks, James Dugdale, and William Norris, their heirs and assigns, the lands and hereditaments comprised in the Third Schedule to his said will, to hold the same unto and to the use of them, their heirs and assigns, upon trust to pay the net annual income thereof, as and when the same should from time to time become actually receivable, and not by way of anticipation, into the proper hands of his daughter Sarah Harrison for her separate use, free from all marital control or interference, as a strictly personal and unalienable provision during her life, unless or until she, being for the time being discovert, should do or suffer any act or thing, or any event should happen whereby, notwithstanding the restriction on anticipation therein-before imposed, the same income or any part thereof

Will of  
Samuel  
Brooks,  
dated 1st  
Nov. 1861.

A.D. 1878. should or, but for the trust or provision next therein-after contained, would either voluntarily or involuntarily be alienated or incumbered, or be receivable otherwise than by herself personally; and then the said testator directed the same income to be applied, during the remainder of the life of the said Sarah Harrison, upon the trusts in the said will declared concerning the same in favour of the said Sarah Harrison and her children and issue; and from and immediately after the decease of his same daughter Sarah Harrison, then as to as well the said hereditaments comprised in the said Third Schedule as the annual income thereof, thenceforth to accrue upon trust for all or any one or more of the children or remoter issue of his same daughter (such remoter issue being born in her lifetime or within twenty-one years next after her death), in such proportions, for such estates and interests, with such provisions for advancement, and maintenance, and education, and generally in such manner in all respects as she, whether covert or not, and notwithstanding any coverture, should by any deed or deeds to be made either with or without power of revocation and new appointment, or by her will or any testamentary writing duly executed, appoint, with a provision in usual form for bringing appointed shares into hotchpot; and in default of appointment, and subject to any and every partial appointment, upon trust for the child, if only one, or all the children, if more than one, of his same daughter Sarah Harrison, who (either before or after her decease), being male, should attain the age of twenty-one years, or die under that age, leaving lawful issue, or, being female, should attain the age of twenty-one years, or should marry under that age, and, if more than one, in equal shares; and the said will contained powers of maintenance and advancement, and also further trusts in favour of the testator's other children, and otherwise in case no child or issue of the testator's said daughter Sarah Harrison should acquire an absolute interest by virtue of any appointment or otherwise, under the trusts therein-before declared, of and in the same hereditaments comprised in the said Third Schedule; and the said testator declared that it should be lawful for the trustees or trustee for the time being, at any time or times before the entirety of the said hereditaments comprised in the said Third Schedule, or which should be vested in the trustees or trustee for the time being upon the same trusts, should have become vested in some person or persons for an absolute and indefeasible estate in fee simple in equity under the trusts or provisions of the said will, with the consent in writing of his said daughter Sarah Harrison, if living and competent to give such consent, and which she should be, notwithstanding coverture, but otherwise in the sole



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and absolute discretion of the trustees or trustee for the time being, and when and as they or he should deem expedient to sell the said hereditaments comprised in the said Third Schedule, or any part or parts thereof, in the manner in the said will mentioned; and either for money in gross, or if deemed expedient as to all or any part or parts of the same several hereditaments (being of a corporeal nature), for any sufficient chief or ground rent or rents to be limited, reserved, or made payable thereout, either upon conveyance in fee or upon demise for long terms of years, and to be secured thereupon, and to be settled upon the trusts and provisions thereof affecting the hereditaments so sold, so far as such trusts and provisions should be applicable (including the powers of sale, exchange, and partition therein mentioned), or partly for money in gross, and partly for such chief or ground rent or rents as aforesaid, to be settled in like manner as aforesaid, or, with such consent or in such discretion as aforesaid, to exchange all or any of the said hereditaments comprised in the said Third Schedule in manner in the said will provided, and, with such consent or in such discretion as aforesaid, to make partition of any of the said hereditaments comprised in the said Third Schedule, whereof any undivided share or shares should for the time being be vested in the trustees or trustee for the time being upon the trusts thereof, with full liberty to give or accept any gross sum or sums of money, or any such chief or ground rent or rents as aforesaid, to be settled in case of acceptance in like manner as aforesaid, for equality of exchange or partition, and generally, with such consent or in such discretion as aforesaid, to take all such measures and make all such arrangements for facilitating the exercise of the now stating power of sale, exchange, and partition as should be deemed expedient, together with power to lay out the moneys to arise from any such sale, exchange, or partition in the purchase of hereditaments as in the said will mentioned, and to settle the hereditaments so to be purchased or acquired by any exchange or partition as aforesaid in the manner in the said will mentioned; and the said testator, by his said will, also gave and devised unto the said William Cunliffe Brooks, James Dugdale, and William Norris, their heirs and assigns, certain lands and hereditaments respectively mentioned or described and comprised in the Fourth, Fifth, Sixth, and Seventh Schedules to the said will, upon, for, with, under, and subject to all and singular the like trusts, intents and purposes, limitations and powers, and provisions in all respects, in favour of and with regard to the testator's daughters Anne Close, Alice Gaskell, Mary Margaret Broadhurst, and Ellen Milne respectively, and their respective children, issue and appointees, and (eventually or contingently) the testator's other children, and other-

A.D. 1878. wise as therein-before expressed, declared, or contained of or concerning the said hereditaments comprised in the said Third Schedule in favour of and with regard to his said daughter Sarah Harrison, and her children, issue and appointees, and (eventually or contingently) the testator's other children, and otherwise as aforesaid; and the said testator expressly declared that all the powers of sale, exchange, and partition, and all the powers of leasing mines, minerals, and other hereditaments, and of allotting the estates in specie, and all the consequential provisions and directions in connexion with the said powers respectively, or any of them, therein-before respectively contained and made applicable to or in respect of the said hereditaments comprised in the said Third Schedule, should be applicable in all respects (*mutatis mutandis*) to or in respect of the hereditaments comprised in the said Fourth, Fifth, Sixth, and Seventh Schedules respectively; and the said testator, after disposing of certain lands described in the Eighth Schedule in favour of issue of a deceased son, gave and devised unto the said William Cunliffe Brooks, and the said James Dugdale and William Norris, their heirs and assigns, all the lands and hereditaments comprised in the Ninth Schedule to his said will, to hold the same unto and to the use of them, their heirs and assigns, as to the several five equal undivided fifth parts or shares thereof (the said hereditaments being considered as divided into five equal parts or shares), upon, for, with, under, and subject to all and singular the like trusts, intents and purposes, limitations, powers, and provisions, and in the like manner in all respects as were therein-before expressed, declared, or contained of and concerning the hereditaments comprised in the said Third, Fourth, Fifth, Sixth, and Seventh Schedules, in favour of his said daughters Sarah Harrison, Anne Close, Alice Gaskell, Mary Margaret Broadhurst, and Ellen Milne, and their children, issue and appointees, respectively, and (eventually or contingently) his other children, and otherwise as therein-before mentioned; and the said testator declared that all or any of the powers thereby by reference given or made exerciseable in respect of each of the said several undivided fifth parts or shares of the said hereditaments comprised in the said Ninth Schedule, or subject to the same trusts, might be exercised by the trustees or trustee of such shares (as far as circumstances would admit), either alone or in concurrence with the person or persons entitled to or authorised to exercise similar powers in respect of the other shares of the same hereditaments, or any of such other shares; and the said testator also empowered his trustees or trustee, at their or his absolute discretion, and without the consent of any other person or persons whomsoever, at any time or times before the entirety of the hereditaments comprised in the said Ninth Schedule, or for the



time being subject to the same trusts, should have become absolutely vested in some person or persons for an estate in fee simple in equity under the trusts or provisions of the said will, to allot and partition the said hereditaments comprised in the said Ninth Schedule, or for the time being subject to the same trusts, or any part or parts thereof, in specie unto or amongst or in trust for all or any of the objects of the trusts of the said hereditaments comprised in the said Ninth Schedule, in full for or in part satisfaction of the undivided share or respective shares of such object or objects under the same trusts, according to the value of the estate to be so allotted, such value to be ascertained by a competent valuer to be appointed by the said trustees or trustee, and which allotment or respective allotments, when so made, should be subject to trusts and provisions corresponding as nearly as might be with the trusts and provisions to which the undivided share or shares in respect of which the same should have been made was or were subject previously to such allotment or allotments; and the said testator declared that in the meantime, and until such allotment or allotments and partition as aforesaid should have been made of all the hereditaments comprised in the said Ninth Schedule, or subject to the same trusts, it should be lawful for the trustees or trustee, with such consent or otherwise as in the said will is mentioned, to exercise all or any of such powers (*mutatis mutandis*) as were therein-after conferred upon the surviving trustees or trustee of the first moiety of the said testator's residuary estate in respect of such first moiety in case the testator's son William Cunliffe Brooks should predecease the testator, and at the testator's decease any object of the gift of the first moiety of the testator's residuary estate should be under the age of twenty-one years, and which powers included powers of sale, exchange, and partition, similar in terms to the powers of sale, exchange, and partition conferred by the testator upon the trustees or trustee of the hereditaments comprised in the said Third Schedule; and subject to and charged with the payment of debts, funeral expenses, and the expenses of proving his will and pecuniary legacies as therein mentioned, the testator gave, devised, and bequeathed all the estate and effects, both real and personal, of or to which he should be seized, possessed, or entitled at the time of his decease, or of which he should have power to dispose, and which were not therein-before disposed of (except estates vested in him as a trustee or mortgagee), unto and to the use of the said William Cunliffe Brooks, James Dugdale, and William Norris as to one undivided moiety or equal half part (therein-after called the first moiety), upon trust for his said son William Cunliffe Brooks, if he should be living at the testator's

A.D. 1878. — decease, his heirs, executors, administrators, and assigns, according to the nature and quality of the said estates and effects respectively, with alternative provisions in favour of the issue of the said William Cunliffe Brooks in the event of his being dead at the time of the testator's decease; and as to the other undivided moiety or equal half part upon trusts not material to be herein set forth; and the testator appointed the said William Cunliffe Brooks, James Dugdale, and William Norris to be executors of his said will :

First codicil,  
dated  
19th July  
1862.

And whereas by a codicil to his said will, dated the nineteenth of July one thousand eight hundred and sixty-two, the said testator devised his freehold estate in the township of Moston, in the county of Lancaster, described in the said codicil (and herein-after called the Moston Estate), to the said William Cunliffe Brooks, James Dugdale, and William Norris, upon, for, with, under, and subject to the same or the like trusts, intents, purposes, limitations, powers, and provisions as were in his said will expressed, declared, and contained of and concerning the freehold hereditaments comprised in the said Ninth Schedule in the same manner in all respects as if the said estate thereby devised had been comprised in such Ninth Schedule and had been by the said will devised along with the other hereditaments comprised in such schedule; and by the same codicil the said testator made further devises and declarations, which in nowise affect the trusts declared in the said will concerning the hereditaments comprised in or subject to the trusts of the said Ninth Schedule, or any part thereof :

Second  
codicil, dated  
1st May  
1863.

And whereas by a second codicil, dated the first of May one thousand eight hundred and sixty-three, the testator revoked his said will and first codicil so far as the said James Dugdale was an object thereof, whether as trustee, executor, legatee, or otherwise howsoever, and substituted in his place Tom Harrop Sidebottom, therein called Thomas Harrop Sidebottom, whom the testator thereby appointed a trustee and executor of his said will and codicil :

Third  
codicil, dated  
20th June  
1863.

And whereas the said testator duly executed a third codicil, dated the twentieth of June one thousand eight hundred and sixty-three, which in nowise affected the trusts declared by the said will or by the said first or second codicils concerning the hereditaments comprised in or subject to the trusts of the said Ninth Schedule :

Death of  
testator, 7th  
June 1864.

And whereas the said testator died on the seventh of June one thousand eight hundred and sixty-four, without having revoked his said will or codicils, or any of them, and without having altered the same, or any of them, save so far as one was altered by another of them :

Will and  
codicils,  
proved 27th  
June 1864.

And whereas on the twenty-seventh of June one thousand eight hundred and sixty-four the said will and codicils were duly proved



in the District Registry of Her Majesty's Court of Probate at Manchester by the said William Cunliffe Brooks, Tom Harrop Sidebottom, and William Norris, the executors named therein: A.D. 1878.

And whereas the only children of the testator living at the date of his death were his said sons William Cunliffe Brooks and Thomas Brooks, and his said daughters Sarah Harrison, Anne Close, Alice Gaskell, Mary Margaret Broadhurst, and Ellen Milne:

And whereas the said William Norris died on the twenty-third of January one thousand eight hundred and seventy, and on the first of January one thousand eight hundred and seventy-four Richard Henry Wood was duly appointed a trustee of the said will and codicils in his place:

And whereas the testator's daughter Sarah Harrison intermarried first with William Burd, and there were five children born of that marriage and no more, that is to say, Margaret Brooks Burd, who has attained the full age of twenty-one years and is unmarried, Sarah, now the wife of Alexander McCulloch, Samuel Burd and John Burd, who have both attained the age of twenty-one years, and Jane Wilhelmina Burd, who died an infant and without having been married:

And whereas no settlement or agreement for a settlement affecting the interest of the said Sarah McCulloch under the testator's will was made or entered into on the occasion of her marriage, or has since been made or entered into:

And whereas the said William Burd died on the 29th of September in the year one thousand eight hundred and forty-eight, and after his decease the said Sarah Harrison married secondly John Cooper Harrison, and there have been five children born of that marriage and no more, that is to say, Charles Ernest Harrison, who has attained the age of twenty-one years, and Alice Gertrude Harrison and Walter Brooks Harrison, both of whom are under that age and unmarried, Beatrice Mary Harrison, who died an infant and without having been married, and Percy Brooks Harrison, who died an infant and without having been married:

And whereas the said Sarah Harrison has never exercised the powers of appointment conferred upon her by the said will and codicils of the said testator over the hereditaments comprised in the Third Schedule to his said will, or the share in which she was interested in the hereditaments comprised in or subject to the trusts of the said Ninth Schedule to the said will:

And whereas the testator's said daughter Anne Close intermarried with James Close, and there were eight children born of that marriage and no more, that is to say, Margaret Mary Brooks Close, Grace Brooks Close, John Brooks Close, James Brooks Close, William Brooks Close, Frederick Brooks Close, and Anne Brooks

A.D. 1878. — Close, who have all attained the age of twenty-one years, and Thomas Brooks Close, who has died an infant and without having been married :

Deed poll,  
18th July  
1874.

And whereas by a deed poll dated the eighteenth of July one thousand eight hundred and seventy-four the said Anne Close appointed a sum of five thousand pounds to be raised immediately after her decease, with interest thereon in the meantime, for the said John Brooks Close, out of the said hereditaments, devised by the said will of the said testator in trust for the said Anne Close and her children and appointees as aforesaid :

Marriage  
settlement,  
dated 24th  
July 1874.

And whereas by an indenture dated the twenty-fourth of July one thousand eight hundred and seventy-four, and made between the said John Brooks Close of the first part, Emily Brooks of the second part, and the said James Brooks Close, Daniel Jones, and Charles Stokes Read of the third part (being a settlement made in contemplation of the marriage of the said John Brooks Close, with the said Emily Brooks, which marriage was shortly afterwards solemnized), the said sum of five thousand pounds to which the said John Brooks Close was entitled under the said deed poll of the eighteenth of July one thousand eight hundred and seventy-four as aforesaid, and all interest to become payable in respect thereof, were assigned unto the said James Brooks Close, Daniel Jones, and Charles Stokes Read, upon trusts in the said indenture declared in favour of the said John Brooks Close, Emily Brooks, their issue and appointees ; and whereas there have been two children born of the marriage of the said John Brooks Close and Emily his wife, and no more, that is to say, Annie Isabel Close and John Charles Close, who are both under the age of twenty-one years :

And whereas the said sum of five thousand pounds appointed by the said deed poll of the eighteenth of July one thousand eight hundred and seventy-four has not yet been raised :

Deed poll,  
dated 4th  
September  
1874.

And whereas by a deed poll dated the fourth of September one thousand eight hundred and seventy-four the said Anne Close appointed the sum of five thousand pounds to be raised immediately after her decease, with interest thereon in the meantime, for the said Margaret Mary Brooks Close, out of the said hereditaments devised by the said will of the said testator in trust for the said Anne Close and her children and appointees as aforesaid :

Marriage  
settlement,  
dated 5th  
September  
1874.

And whereas by an indenture dated the fifth of September one thousand eight hundred and seventy-four, and made between John Frederick Eaden of the first part, the said Margaret Mary Brooks Close of the second part, the said James Brooks Close, James Henry Harmar Moxon, and Henry William Eaden of the third part (being a settlement made in contemplation of the marriage of the said John Frederick Eaden with the said Margaret



A.D. 1878.

Mary Brooks Close, which marriage was shortly afterwards solemnized), the said sum of five thousand pounds to which the said Margaret Mary Brooks Close was entitled under the said deed poll of the fourth of September one thousand eight hundred and seventy-four as aforesaid, and all interest to become payable in respect thereof, were assigned unto the said James Brooks Close, James Henry Harmar Moxon, and Henry William Eaden, upon trusts in the said indenture declared in favour of the said Margaret Mary Brooks Close, John Frederick Eaden, and their issue and appointees, or otherwise as therein mentioned, and in the now stating indenture is contained a covenant on the part of the said John Frederick Eaden and Margaret Mary Brooks Close to convey, assign, pay, or transfer unto the trustees or trustee for the time being thereof all the real and personal estate whatsoever to which the said Margaret Mary Brooks Close, or the said John Frederick Eaden in her right, should upon the solemnization of the said intended marriage, or at any time afterwards during the intended coverture of the said Margaret Mary Brooks Close, be or become absolutely entitled for any estate or interest whatsoever in possession or reversion, or to which the said John Frederick Eaden, his executors or administrators, should or might at any time or times after the decease of the said Margaret Mary Brooks Close become absolutely entitled in right of the said Margaret Mary Brooks Close, for any estate or interest whatsoever, either in possession or reversion (other than jewels, furniture, or other chattels for personal use or enjoyment, or any savings out of her separate income, or any chattels, effects, or estates purchased out of her separate income, or any sum of money or chattel, not exceeding in each case the amount or value of £500, which might be given or bequeathed to the said Margaret Mary Brooks Close by will or otherwise, or any property belonging or which might be given or bequeathed to or settled upon her for her separate use, all which excepted articles should belong to the said Margaret Mary Brooks Close as her separate estate), upon trusts similar to those declared of the said last-mentioned sum of five thousand pounds :

And whereas the said last-mentioned sum of five thousand pounds has not yet been raised :

And whereas the said Anne Close by her last will and testament, dated the fifteenth of December one thousand eight hundred and sixty-nine, appointed that all the estates and property over which she had a power of appointment under the said will and codicils of the said testator should be held upon trust for all and every her children and child who (either before or after her death), being sons or son, should attain or should have attained the age of twenty-one

Will of  
Anne Close,  
dated 5th  
Dec. 1869.

A.D. 1878. — years, or should die under that age, leaving issue, or, being daughters or a daughter, should attain or should have attained the age of twenty-one years, or should marry under that age, and, if more than one, in equal shares, with a declaration that each daughter's share should be held during her life for her separate use, and after her death should go as she should by deed or will appoint, and in default of appointment should go to her heirs :

Codicil,  
dated 20th  
Dec. 1875.

And whereas the said Anne Close executed a codicil to her said will, dated the twentieth of December one thousand eight hundred and seventy-five, which in no way affects the aforesaid trusts declared by way of appointment in her said will :

And whereas the said Anne Close died on the nineteenth of July one thousand eight hundred and seventy-six, without having revoked her said will, except so far as the same was revoked by the said codicil :

And whereas the said Margaret Mary Brooks Eaden (formerly Close) died on the eleventh of June one thousand eight hundred and seventy-seven, leaving her husband the said John Frederick Eaden her surviving, and two infant daughters Grace Eaden and Margaret Eaden her coheiresses-at-law, and without having exercised the power of appointment given to her by the will of her mother the said Anne Close :

And whereas the said will and codicil were proved in the Principal Registry of the Probate Division of Her Majesty's High Court of Justice on the fifteenth of December one thousand eight hundred and seventy-six by John Brooks Close and James Brooks Close, two of the executors named therein :

And whereas the testator's said daughter Alice Gaskell intermarried with Henry Lomax Gaskell, and there were ten children born of that marriage and no more, that is to say, Henry Brooks Gaskell, Charles Edward Gaskell, James Gaskell, Walter Edgar Gaskell, Alice Jane Gaskell, Margaret Caroline Gaskell, and Henrietta Gaskell, who have all attained the age of twenty-one years, and John Francis Gaskell, Annie Blanche Gaskell, and Samuel William Gaskell, who have not attained that age :

And whereas the said Alice Gaskell died on the twenty-seventh of December one thousand eight hundred and seventy-two, without having ever exercised the power of appointment conferred upon her by the said will and codicils of the said Samuel Brooks over the said hereditaments comprised in the Fifth Schedule to the said will, or over the share in which she was interested in the said hereditaments comprised in or subject to the trusts of the Ninth Schedule to the said will :



And whereas by an indenture dated the twenty-second of December one thousand eight hundred and seventy-three, made between Henry Brooks Gaskell of the first part, Helen Mary Melville of the second part, and Henry Gaskell Close and Valentine Hill of the third part (being a settlement made in contemplation of the marriage of the said Henry Brooks Gaskell with the said Helen Mary Melville, which marriage was shortly after solemnized), all that the one-tenth part or share, and all other, if any, the part, share, estate, and interest of the said Henry Brooks Gaskell of and in so much and such part and parts of the said hereditaments comprised and referred to in the Fifth Schedule to the said will of the said Samuel Brooks, and of the one equal fifth part of the hereditaments comprised and referred to in the Ninth Schedule to the said will and in the said first codicil thereto as then still remained vested in the trustees or trustee for the time being of the said will, and under or by virtue of the said will and codicils, or any of them, and all other (if any) the part, share, and interest, parts, shares, and interests, to which the said Henry Brooks Gaskell was then or might thereafter be or become entitled under or by virtue of the said will and codicils of the said Samuel Brooks of and in the real and personal estate which was then subject to the trusts of the same will and codicils, and which had not theretofore been received by the said Henry Brooks Gaskell, were granted and assigned unto and to the use of the said Henry Gaskell Close and Valentine Hill, their heirs, executors, administrators, and assigns respectively, upon trusts in the said indenture declared in favour of the said Henry Brooks Gaskell and Helen Mary Melville and their appointees as therein mentioned:

A.D. 1878.  
Marriage  
settlement,  
dated 22nd  
Dec. 1873.

And whereas the said testator's daughter Mary Margaret Broadhurst intermarried with Henry Tootal Broadhurst, and there were eight children born of that marriage and no more, that is to say, Henry Brooks Broadhurst, who has attained the age of twenty-one years, and Marion Brooks Broadhurst, Edward Tootal Broadhurst, Arthur Brooks Broadhurst, Florence Brooks Broadhurst, and Godfrey Brooks Broadhurst, who are all under the age of twenty-one years and unmarried, and John Brooks Broadhurst and Grace Alice Brooks Broadhurst, who died infants and without having been married:

And whereas the said Mary Margaret Broadhurst died on or about the sixth of March one thousand eight hundred and seventy-two, without having ever exercised the power of appointment conferred upon her by the said will and codicils of the said testator over the said hereditaments comprised in the Sixth Schedule to the will, or over the share in which she was interested in the said

A.D. 1878. hereditaments comprised in or subject to the trusts of the said Ninth Schedule to the said will :

And whereas the said testator's daughter Ellen Milne intermarried with Alfred Milne, but the said marriage has been dissolved, and there were six children born of that marriage before the separation of the said Alfred Milne and Ellen Milne and no more, that is to say, Alfred Oswald Milne, who attained the age of twenty-one years, and died on the eighteenth of July one thousand eight hundred and seventy-seven intestate, and without having been married, leaving his father Alfred Milne, his heir-at-law, him surviving, and William Auguste Meuricoffre Milne, who has attained the age of twenty-one years, Constance Alice Maud Milne, Dora Milne, Edgar Astley Milne, and Gerald Milne, who are under the age of twenty-one years and unmarried, and another child, named Blanche Frederica, was born to the said Ellen Milne on the twelfth day of July one thousand eight hundred and seventy, the said Alfred Milne having separated himself from the said Ellen Milne in or about December one thousand eight hundred and sixty-nine :

And whereas the said Ellen Milne died on the sixteenth of February one thousand eight hundred and seventy-eight, without having ever exercised the power of appointment conferred upon her by the said will and codicils of the said testator over the said hereditaments comprised in the Seventh Schedule to the said will, or over the share in which she was interested in the said hereditaments comprised in or subject to the trusts of the said Ninth Schedule to the said will :

Deed of partition, dated 24th June 1870.

And whereas by an indenture dated the twenty-fourth of June one thousand eight hundred and seventy, and made between the said William Cunliffe Brooks and Tom Harrop Sidebottom of the one part, and the said Sarah Harrison, Anne Close, Alice Gaskell, Mary Margaret Broadhurst, and Ellen Milne of the other part, after reciting, among other things, the power of partitioning and allotting the said hereditaments comprised in the Ninth Schedule to the said will of the said testator, and that the said William Cunliffe Brooks and Tom Harrop Sidebottom had determined, in pursuance of the power in that behalf contained in the said will, to allot and partition in specie such of the hereditaments comprised in the said Ninth Schedule to the said will, or subject to the trusts by the said will declared of those hereditaments as were specified in the five several schedules to the indenture now in recital (which included (inter alia) the said freehold estate at Moston devised by the first codicil to the said will of the said testator, upon the trusts



by the said will declared of the hereditaments comprised in the Ninth Schedule to the said will, and also a sum of one thousand five hundred and fifteen pounds in cash, which was subject to be laid out in the purchase of real estate, to be held on the trusts declared by the said will of the hereditaments comprised in the said Ninth Schedule), with the exceptions and reservations thereafter noticed, in trust for the objects of the trusts of the said hereditaments comprised in the said Ninth Schedule, and accordingly had caused the aggregate value of the hereditaments specified in the said five schedules thereto to be ascertained by Mr. Edward James Thompson, of the city of Manchester, a competent and experienced land valuer, and that they had, with the assistance of the said Edward James Thompson, apportioned and arranged the said last-mentioned hereditaments into the said five schedules in such a way that the hereditaments comprised in each of the said schedules (subject to and with the benefit of any leases or tenancies subsisting in such hereditaments) was of equal value with the hereditaments comprised in each other of the said schedules (subject as aforesaid); and that they had determined, as therein recited, that the hereditaments comprised in the respective schedules thereto should be held upon the trusts of the hereditaments respectively comprised in the Third, Fourth, Fifth, Sixth, and Seventh Schedules to the said will; and that it was intended by the said William Cunliffe Brooks and Tom Harrop Sidebottom that all the mines and minerals in and under the hereditaments delineated in the map or plan No. 1 annexed to the said indenture (being the said freehold estate at Moston devised by the said first codicil to the said will of the said testator), but not including therein clay or brick, earth or stones, or any other mineral or fossil substances which were or was upon the surface of the said land, or which could not be worked by underground workings, and all the benefits reserved to the reversioners by any existing lease or leases of any of such mines and minerals as before defined should be excepted and reserved out of the said allotment and partition, and should be still held by the trustees or trustee of the said will and codicils in trust for the respective objects of the trusts of the hereditaments specified in the said Ninth Schedule to the said will in equal fifth shares, but it was intended by the said William Cunliffe Brooks and Tom Harrop Sidebottom that as regards all the roads or streets which were delineated or marked on the maps or plans Nos. 1, 2, and 3 respectively, or any of them, which had not already become public roads or streets, and which were subject to the trusts declared by the said will of the hereditaments comprised in the Ninth Schedule thereto, the soil thereof respectively up to the centre of each such

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road or street should be considered as forming part of the land running contiguous thereto for all the purposes of the allotment or partition; subject, however, to this understanding, that so soon as circumstances admitted, and as any public body should be prepared to undertake the management and the expense of the repairs of the said roads and streets, or any of them, the same should be dedicated to the public, and in the meantime such rights of user of the said roads and streets as were therein-after specified should be enjoyed; and that it was also intended by the said William Cunliffe Brooks and Tom Harrop Sidebottom that so long as any tolls should be receivable on behalf of the trust in respect of any such roads or streets as aforesaid the same should be held and applied by the trustees or trustee of the said will and codicils on the same trusts and for the same purposes on and for which the same would have been held and applied if the said indenture had not been executed, and that such provision as was therein-after contained should be made for keeping in repair any such roads or streets as aforesaid, and any main sewers and drains under the same; and that it was also intended that a certain wayleave should be excepted and reserved out of the said allotment and partition, and be held by the trustees or trustee of the said will and codicils on the trusts on which the same would have been held if the now-stating indenture had not been executed; and reciting that the several sums of cash which in the five several schedules to the said indenture were apportioned as therein mentioned amounted together to the sum of one thousand two hundred and sixty-nine pounds seven shillings and ninepence, leaving unapportioned the sum of two hundred and forty-six pounds twelve shillings and threepence, part of the said sum of one thousand five hundred and fifteen pounds cash, and that such sum of two hundred and forty-six pounds twelve shillings and threepence was kept so unapportioned to the intent that the same, so far as the same would extend, or a sufficient part thereof, might be applied in or towards defraying the costs and expenses of and attending the allotment and partition intended to be thereby completed, and that the surplus, if any, of the said sum of one thousand five hundred and fifteen pounds might be held by the trustees or trustee of the said will and codicils of the said testator upon trusts on which the same would have been held if the said indenture had not been executed; and reciting that the said Sarah Harrison, Anne Close, Alice Gaskell, Mary Margaret Broadhurst, and Ellen Milne were fully satisfied with the allotment and partition made as therein-before mentioned; it was witnessed that in further pursuance of the aforesaid power in that behalf, and for the purpose of completing the aforesaid allotment and partition, the said William



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Cunliffe Brooks and Tom Harrop Sidebottom did thereby testify and declare that they the said William Cunliffe Brooks and Tom Harrop Sidebottom, and their heirs, executors, administrators, and assigns, would be seized and possessed of all and singular the messuages, lands, rents, tenements, hereditaments, and money specified in the five several schedules thereto, with the respective rights, members, and appurtenances, subject to and with the benefit of all leases or tenancies of or relating to the same premises, or any of them (save and except out of such of the hereditaments specified in the same schedules as were delineated on the said map or plan No. 1 all the mines and minerals in or under the same hereditaments as therein-before defined, and all the benefit reserved to the reversioners by any existing lease or leases of any of such mines and minerals, but including as parts of the hereditaments specified in the same schedules all such of the roads or streets connected therewith as had not already become public roads or streets, and as were subject to the trusts declared by the said will of or concerning the hereditaments comprised in the Ninth Schedule thereto), upon and for the trusts, intents, and purposes, and with and under the powers and provisions therein-after expressed or contained, whereby in effect trusts identical with or as near as circumstances would admit to the trusts declared by the said will of the said testator Samuel Brooks of and concerning the hereditaments comprised in the Third, Fourth, Fifth, Sixth, and Seventh Schedules to the said will respectively were declared concerning the hereditaments comprised in the several schedules to the indenture now in recital; and provisions were thereby made for securing to all persons interested in any of the hereditaments comprised in the schedules thereto the use of the roads or streets therein mentioned, and of the wayleave therein also mentioned, and providing for the repairs of roads and sewers, and for the payment of the costs thereof:

And whereas since the date of the said indenture of the twenty-fourth of June one thousand eight hundred and seventy divers portions of the said Moston Estate have been sold for chief rents, with a reservation to the trustees of the said will of the said testator of all mines and minerals under the portions sold, with power to win and get the same; and divers portions of other estates comprised in the said indenture have been sold, some for gross sums paid to the trustees for the time being of the said will, and others for chief rents reserved and made payable to such trustees; and divers contracts have also been entered into by the said William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood for the sale of divers other portions of the said Moston

A.D. 1878. Estate in consideration of chief rents reserved, with an express exception and reservation of all mines and minerals, and with full power to work and get the same; and divers contracts have also been entered into by the said William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood for the sale of divers portions of the other estates comprised in the said indenture for chief rents to be reserved and made payable to the trustees:

And whereas after the completion of the said sales, and after the said contracts for sale were entered into, doubts arose respecting the validity of the said deed of partition and allotment of the twenty-fourth June one thousand eight hundred and seventy, by reason of the mines and minerals under the said Moston Estate having been reserved and excepted out of the said indenture of partition and allotment as aforesaid, without any express authority for such reservation and exception under the terms of the power of partition and allotment given by the said will in respect of the said hereditaments comprised in or subject to the trusts of the said Ninth Schedule thereto:

Order of  
Court, dated  
11th May  
1878.

And whereas by a judgment of the Chancery Division of the High Court of Justice given by his Lordship the Master of the Rolls on the eleventh day of May one thousand eight hundred and seventy-eight, in an action wherein the said Sarah Harrison (by Samuel Burd, her son and next friend), Margaret Brooks Burd, Sarah McCulloch (by the said Samuel Burd, her brother and next friend), Samuel Burd, John Burd, and Charles Ernest Harrison, and Alice Gertrude Harrison, and Walter Brooks Harrison, infants (by the said Samuel Burd, their half-brother and next friend), were plaintiffs, and the said William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood, and the said John Cooper Harrison, and the said Alexander McCulloch, and James Brooks Close, James Henry Harmar Moxon, and Henry William Eaden, and John Frederick Eaden, and Grace Eaden and Margaret Eaden, infants, by John Eaden, their guardian, and John Brooks Close and Emily his wife, and Daniel Jones, and Charles Stokes Read, and William Brooks Close, Frederick Brooks Close, and Grace Brooks Close, and Anne Brooks Close, and Henry Gaskell Close, and Valentine Hill, Henry Brooks Gaskell and Helen Mary his wife, Charles Edward Gaskell, James Gaskell, Walter Edgar Gaskell, Alice Jane Gaskell, Margaret Caroline Gaskell, and Henrietta Gaskell, and John Francis Gaskell, Annie Blanche Gaskell, and Samuel William Gaskell, infants, by Henry Lomax Gaskell, their guardian, and Henry Brooks Broadhurst and Marion Brooks Broadhurst, Edward Tootal Broadhurst, Arthur Brooks Broadhurst, Florence Brooks Broadhurst, Godfrey Brooks Broadhurst, infants,



by Henry Tootal Broadhurst, their guardian, and Alfred Milne, and William Auguste Meuricoffre Milne, and Constance Alice Maud Milne, Dora Milne, Edgar Astley Milne, and Gerald Milne, infants, by Alfred Milne, their guardian, and Blanche Frederica Milne, an infant, by James Brooks Close, her guardian, and Annie Isabel Close and John Charles Close, infants, by James Brooks Close, their guardian, were defendants, it was declared that the partition made or attempted to be made by the said indenture of the twenty-fourth day of June one thousand eight hundred and seventy in the pleadings mentioned, and the sales and contracts for sale made thereunder, ought to be confirmed; and it was ordered and adjudged that the defendants William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood, the trustees of the will of the testator Samuel Brooks, should be at liberty to make application to Parliament for a private Act of Parliament confirming and ratifying the said indenture of the twenty-fourth of June one thousand eight hundred and seventy, and the allotment and partition made or attempted to be made thereby, and all sales and contracts for sales made thereunder, and that the draft of such Bill should be settled by the judge :

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And whereas, in pursuance of the said judgment, the chief clerk of the Master of the Rolls made his certificate, dated the eighteenth day of May one thousand eight hundred and seventy-eight, in the said action, and thereby certified that the draft of a Bill to be submitted to Parliament for an Act to be entitled "An Act to confirm a partition made of certain hereditaments held upon the trusts by the will of Samuel Brooks, deceased, declared concerning the hereditaments comprised in the Ninth Schedule to the said will," had been settled and approved by the judge, and was identified by his (the chief clerk's) signature in the margin of the first page thereof, and that the several instruments, statements, facts, and events recited in the preamble of such draft Bill immediately before the recital therein of his said certificate had been proved in the said action, except the aforesaid statement that another child named Blanche Frederica was born to the said Ellen Milne on the twelfth day of July one thousand eight hundred and seventy, as to which statement no evidence had been adduced, and the said certificate was afterwards approved by the said judge, and was on the twenty-second day of May one thousand eight hundred and seventy-eight duly filed in the report office of the said High Court of Justice :

Chief clerk's  
certificate,  
dated 18th  
May 1878.

Now, therefore, Your Majesty's most dutiful and loyal subjects the said William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood do most humbly beseech Your Majesty that

A.D. 1878. — 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:

Short title. 1. In citing this Act for any purpose it shall be sufficient to use the expression "Brooks' Settled Estates Partition Confirmation Act, 1878."

Indenture of 24th June 1870, &c. confirmed. 2. The herein-before recited indenture of partition of the twenty-fourth of June one thousand eight hundred and seventy, and the allotment and partition made or attempted to be made thereby, are hereby confirmed and ratified, and declared valid at law and in equity as from the date of the said indenture of partition.

General saving. 3. Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to all and every other person and persons, bodies politic and corporate, his, her, and their heirs, successors, executors, administrators, and assigns (other than and except the said William Cunliffe Brooks, Tom Harrop Sidebottom, and Richard Henry Wood as trustees of the said will of the said Samuel Brooks, and all other the trustees of the said will, and the said John Cooper Harrison and Sarah his wife, and the said Margaret Brooks Burd, Alexander McCulloch and Sarah his wife, Samuel Burd, John Burd, Charles Ernest Harrison, Alice Gertrude Harrison, and Walter Brooks Harrison, and any other child, children, or remoter issue of the said Sarah Harrison, and the said James Brooks Close, James Henry Harmar Moxon, and Henry William Eaden as trustees of the said indenture of settlement of the fifth day of September one thousand eight hundred and seventy-four, and all other the trustees of the same settlement, and the said John Frederick Eaden, Grace Eaden, and Margaret Eaden, whether claiming under the said indenture of settlement or independently thereof, and any other person or persons claiming or to claim under or by virtue of the same indenture of settlement, and the said James Brooks Close, Daniel Jones, and Charles Stokes Read as trustees of the said indenture of settlement of the twenty-fourth day of July one thousand eight hundred and seventy-four, and all other the trustees of the same indenture, and the said John Brooks Close and Emily his wife, formerly Emily Brooks, and the said Annie Isabel Close and John Charles Close, and any other issue of the said John Brooks Close and Emily his wife, whether claiming under the said indenture of settlement or independently thereof, and any other person or persons claiming or to claim under or by virtue of the same indenture of settlement, and the said James Brooks Close in his own right, William Brooks Close, Frederick Brooks Close, Grace Brooks Close, and Annie



Brooks Close, and their respective appointees and heirs, and the said Henry Gaskell Close and Valentine Hill as trustees of the said indenture of settlement dated the twenty-second of December one thousand eight hundred and seventy-three, and all other the trustees of the same indenture, and the said Henry Brooks Gaskell and Helen Mary his wife and their appointees, and any other person or persons claiming or to claim under or by virtue of the same indenture of settlement, and the said Charles Edward Gaskell, James Gaskell, Walter Edgar Gaskell, Alice Jane Gaskell, Margaret Caroline Gaskell, Henrietta Gaskell, John Francis Gaskell, Annie Blanche Gaskell, and Samuel William Gaskell, and the said Henry Brooks Broadhurst, Marion Brooks Broadhurst, Edward Tootal Broadhurst, Arthur Brooks Broadhurst, Florence Brooks Broadhurst, and Godfrey Brooks Broadhurst, and the said Alfred Milne, William Auguste Meuricoffre Milne, Constance Alice Maud Milne, Dora Milne, Edgar Astley Milne, Gerald Milne, and Blanche Frederica Milne, and all other persons claiming or to claim under or by virtue of the said will and codicils of the said testator Samuel Brooks, or any of them, or any of the uses, trusts, or limitations therein contained, or otherwise howsoever in respect or on account thereof, and the right heirs of the said testator Samuel Brooks), all such estates, rights, titles, and interests of, in, to, or out of the hereditaments comprised in the said indenture of partition of the twenty-fourth day of June one thousand eight hundred and seventy, or any part thereof, as they, every or any of them, had before the passing of this Act, or would or might have had or enjoyed in case this Act had not been passed.

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4. 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.

Act as  
printed by  
the Queen's  
printers to  
be evidence.