

## PREFACE.

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In these essays no attempt is made to speak authoritatively on the interpretation of *The Devolution of Estates Act*—that is to say, in the absence of decisions upon the many points that arise in the course of administration, an essayist cannot refer to authority for the solution of every difficulty. Such cases as have been reported shew the great and many difficulties encountered in an attempt to elucidate its obscure provisions. Instead of a simple enactment vesting the land in the personal representative, and leaving the administration and distribution to well-known principles of law, and thus making the sale of land, on behalf of an estate, ready and easy of accomplishment, and therefore profitable, the Act is so complicated, the powers of executors and administrators are so badly defined and so encumbered with limitations and conditions, that it is almost hazardous to buy either from a personal representative or a beneficiary. Indeed, this is recognized in the Act itself. For amongst somewhat halting sections intended to confirm sales theretofore made (s. 17 and 2 Edw. VII. c. 17, s. 17) the draftsman leaves it to the courts to adjudicate upon certain sales "according to equity and good conscience" (s. 17, s.-s. 3 and 2 Edw. VII. s. 6)—not a very good recommendation of the legislation, nor a very safe guarantee of title.

There are many inconsistencies, chiefly in the amendments; the purpose of many of the sections is quite obscure; the drafting is not to be commended, and it frequently displays want of continuity of thought even within the limits of a single section. Under these circumstances, one could hardly hope to make out of the subject one symmetrical whole. The aim of the writer has been to first ascertain