



## CHAPTER 3.

An Act for giving effect to a compromise of suits affecting the Estates in the counties of Westmeath and Dublin, in Ireland, late of Adolphus Cooke, deceased. A.D. 1878.

[8th August 1878.]

**W**HEREAS previous to and at the execution of the indenture of mortgage next herein-after recited Adolphus Cooke, of Cookesborough in the county of Westmeath, was seised in fee simple of the lands and premises in the Schedule hereto mentioned, subject to a rentcharge by way of jointure of one thousand five hundred pounds a year payable to Mrs. Anne Lube for her life, and to two charges for the respective sums of three thousand pounds and eight thousand pounds late Irish currency, equivalent to ten thousand one hundred and fifty-three pounds sixteen shillings and elevenpence present currency :

And whereas by indenture bearing date the second day of April one thousand eight hundred and forty-one, and expressed to be made between the said Adolphus Cooke of the one part, and Benjamin James Chapman, now Sir Benjamin James Chapman, Baronet, of the other part, the said Adolphus Cooke conveyed to the said Benjamin James Chapman, his heirs and assigns, by way of mortgage, the said lands and premises in the Schedule hereto mentioned, subject to redemption on payment of the sum of twelve thousand pounds, with interest thereon at the rate of six pounds per centum per annum, reducible to five pounds per centum per annum on punctual payment :

Indenture  
dated 2nd  
April 1841

And whereas both the said sums of three thousand pounds and eight thousand pounds late Irish currency were paid out of and formed a part of the said sum of twelve thousand pounds sterling, and the said charges were by deeds dated respectively the twenty-sixth of February one thousand eight hundred and forty-one and thirtieth of March one thousand eight hundred and forty-one assigned to the said Benjamin James Chapman as further security for the said sum so advanced :

[Private.-3.]

A.

1

A.D. 1878.

Indenture  
dated 1st  
November  
1876.

And whereas by indenture dated the first day of November one thousand eight hundred and seventy-six, and expressed to be made between the said Sir Benjamin James Chapman, Baronet, of the first part, the Right Honourable William Lygon Earl of Longford of the second part, and James Robert Stewart of the third part, the said Benjamin James Chapman did assign unto the said William Lygon Earl of Longford the said sum of twelve thousand pounds secured by the said mortgage, and the benefit of all securities for the same, and all interest to accrue due thereon; and by the said indenture the said Benjamin James Chapman did convey unto the said James Robert Stewart, his heirs and assigns, all the said lands in the Schedule hereto named, containing about three thousand three hundred acres, to hold the same unto and to the use of the said James Robert Stewart, his heirs and assigns, but nevertheless upon trust for the said William Lygon Earl of Longford, his heirs and assigns, subject to such right or equity of redemption as the same premises were then subject to under or by virtue of the said indenture of mortgage on payment of the said sum of twelve thousand pounds and interest:

Further in-  
denture  
dated 1st  
November  
1876.

And whereas by indenture also dated the first day of November one thousand eight hundred and seventy-six, and expressed to be made between the said Sir Benjamin James Chapman, Baronet, of the first part, the Right Honourable William Lygon Earl of Longford of the second part, and the said James Robert Stewart of the third part, the said two charges of eight thousand pounds and three thousand pounds late Irish currency were assigned to the said William Lygon Earl of Longford by way of further security for the said sum of twelve thousand pounds:

Will of  
Adolphus  
Cooke dated  
6th January  
1874.

And whereas the said Adolphus Cooke executed a will dated the sixth of January one thousand eight hundred and seventy-four, and thereby revoked all former wills, and appointed the said Right Honourable William Lygon Earl of Longford, the Reverend William Lyster, and John Fox Goodman to be executors and trustees of his said will; and he devised all his real estate, lands, and hereditaments to the said Earl of Longford, William Lyster, and John Fox Goodman, their heirs and assigns, upon the trusts in the said will declared, which were to the following effect; to set apart every year the sum of two thousand pounds, to pay off the said mortgage of twelve thousand pounds, to keep up his mansion and demesne of Cookesborough, and any other improvements, and subject thereto to accumulate the rents and profits thereof until the Honourable Edward Michael Pakenham, then third son of the said William Lygon Earl of Longford, should attain the age of twenty-one years, and from and after his attaining such age in trust for the said



Honourable Edward Michael Pakenham for his life, and from and after his death to his first and other sons successively in tail male, and in default of issue male to his daughters and their heirs as tenants in common, and if but one daughter to such daughter in tail, and in default of issue of the said Edward Michael Pakenham then to the use of the Honourable Thomas Pakenham, then the second son of the said Earl of Longford, for his life, and from and after his death to his first and other sons successively in tail male, and in default of issue male to his daughters and their heirs as tenants in common, and if but one daughter to such daughter in tail, and in default or failure of such issue then to Adolphus Lambert Dennis, son of the Reverend Morley Dennis, his heirs and assigns for ever; and the said will then contained usual powers and a clause requiring the devisee in possession to assume the surname of Cooke, and to reside at Cookesborough, and it made certain chattels heirlooms, and gave various annuities, legacies, and other benefits to various persons :

A.D. 1878.

And whereas the said Adolphus Cooke executed a codicil to the said will, which was dated the thirteenth July one thousand eight hundred and seventy-four, thereby only making certain alterations in some of the smaller legacies and annuities given by his said will :

Codicil  
dated 13th  
July 1874.

And whereas the said Adolphus Cooke executed another will and testament bearing date the tenth day of September one thousand eight hundred and seventy-four, which is in the words and figures following :

Will of  
Adolphus  
Cooke dated  
10th Septem-  
ber 1874.

“ This is the last will and testament of me, Adolphus Cooke, of  
 “ Cooksborough in the county of Westmeath, Esquire, hereby  
 “ revoking all former wills and codicils. I appoint the Right  
 “ Honourable William Lygon Pakenham Earl of Longford, of  
 “ Pakenham Hall in the county of Westmeath, to be executor  
 “ and trustee of this my will. I devise all my real estate and  
 “ lands and hereditaments to the said Earl of Longford, his  
 “ heirs and assigns, to the use of the Honourable Edward  
 “ Michael Pakenham, third son of the said Earl of Longford,  
 “ during his life, without impeachment of waste, to vest in him  
 “ on attaining the age of twenty-one years, and on his decease  
 “ to the use of his first and other sons lawfully begotten  
 “ successively in tail male, and in default of issue male of the  
 “ said Edward Michael Pakenham and from and after his  
 “ decease to the use of the Honourable Thomas Pakenham,  
 “ second son of the said Earl of Longford, during his life,  
 “ without impeachment of waste, and on his decease to the  
 “ use of his first and other sons lawfully begotten successively

A.D. 1878.  
—

“ in tail male, and in default of issue male of the said  
“ Honourable Thomas Pakenham and from and after his  
“ decease to the use of my own right heirs for ever. And I  
“ do declare that every person hereby made tenant for life of  
“ the said premises may either before or after he or they shall  
“ be entitled to the possession thereof by deed, will, or codicil,  
“ charge all or any of the said premises with the payment of  
“ the portion or portions of his child or all or any of his  
“ children (other than an eldest or only son for the time being  
“ entitled to the possession of or to the first estate of inheri-  
“ tance in the said premises) with any sum or sums not  
“ exceeding in the whole the sum of 5,000*l.* should there be  
“ but one child, and not exceeding 10,000*l.* should there be  
“ two or more such children, to be an interest vested in and  
“ payable to such child or children at such times and in such  
“ manner and form as the person for the time being exercising  
“ such power shall appoint, and may (to provide for raising  
“ and payment of such portion or portions) by deed, will, or  
“ codicil appoint the premises charged therewith to any person  
“ or persons for any term or terms of years, upon the usual trusts  
“ for securing payment of the same: Provided nevertheless that  
“ no portion shall become a lien on all or any part of the premises  
“ or be payable unless the persons appointing the same shall be  
“ or become entitled to the possession, or to the receipt of the  
“ rents and profits of the said premises, or some issue of such  
“ person shall become so entitled. And I hereby declare that  
“ every person hereby made tenant for life of the premises,  
“ when he shall be in actual possession or entitled to the  
“ receipt of the rents and profits thereof, may by deed demise  
“ all or any of the premises (except the mansion house and  
“ present demesne lands, and such other lands adjoining thereto  
“ as shall be in my actual occupation at the time of my death,  
“ all which lands I desire shall continue to be occupied with  
“ the mansion house by my respective devisees) at a rackrent  
“ for any term of years, absolute or determinable, not exceed-  
“ ing thirty-one years, to take effect in possession or within six  
“ months from the date thereof: Provided also, and I further  
“ direct, that every person who shall become entitled to any  
“ estate in possession under the limitations of this my will  
“ shall, within twelve months after he shall become so entitled,  
“ assume and use, under the sanction of an Act of Parliament  
“ or license from the Crown or otherwise, my surname of  
“ ‘Cooke’ immediately after his own surname or principal  
“ name, and shall maintain and keep up my present residence



A.D. 1878.

“ or mansion house on the lands hereby devised, and shall make  
 “ the same his general place of residence unless prevented by  
 “ illness or other necessary absence, and in case of refusal or  
 “ neglect to comply with all or any of the requisitions of  
 “ this proviso, the estate or estates hereby limited to the person  
 “ or ancestor of the persons who shall so neglect or refuse  
 “ shall cease, and the subsequent limitations be accelerated.  
 “ And I direct that the library of books, with the bookcases and  
 “ appendages, the pictures and framed prints, statues, marbles,  
 “ and other articles of virtu which shall be about or belonging  
 “ to my mansion house at Cookesborough at my decease, and  
 “ all my plate and jewels there and elsewhere, shall be annexed  
 “ to the said mansion house as heirlooms, to be enjoyed by the  
 “ person or persons for the time being beneficially entitled to  
 “ the said mansion house under the limitations herein-before  
 “ contained. And I desire that each of the persons who shall  
 “ become entitled in possession to any of the estates limited by  
 “ this my will shall retain in their present employment during  
 “ their respective lives the following persons, Patrick Price and  
 “ Bernard Dalton, as caretakers of Macetown, and Patrick  
 “ Flanagan as caretaker of that portion of Glackstown now in  
 “ my occupation (his family residing in the same dwelling  
 “ with him), and Andrew Coffey as gamekeeper and front  
 “ lodge gatekeeper, and to allow to each of them the grass of  
 “ a cow as I now do gratis, provided they continue to conduct  
 “ themselves with honesty and propriety, and in addition  
 “ thereto I desire that said Andrew Coffey shall during his life  
 “ have the privilege of grazing without charge two horned  
 “ beasts upon the lands of Macetown during each year with  
 “ the exception of two months in the year, during which two  
 “ months he is to have the privilege of finishing them upon  
 “ the demesne lands of Cookesborough. And I also desire that  
 “ my devisees shall carry out and complete the improvements  
 “ which I have designed and commenced on the lands in my  
 “ occupation. I bequeath to my said trustee and executor, the  
 “ said Earl of Longford, all my personal estate upon trust to  
 “ pay thereout the legacies following, a legacy of 50*l.* to the  
 “ Reverend William Lyster of Killucan, and a legacy of 50*l.*  
 “ to the Reverend Henry Knox Hutchinson, vicar of Rath-  
 “ connell. I direct that my said trustee and executor shall  
 “ pay to each one of my labourers, whose names are on my  
 “ labourers list, and who shall be in my employment at the  
 “ time of my decease, the sum of 5*l.* each, such sum of 5*l.* each  
 “ to be increased to the sum of 10*l.* each in the event of the  
 “ annuity of 1,500*l.* per annum now payable out of my estates

A.D. 1878.  
—

“ having determined before my decease, and it is my desire  
“ that all the legacies herein-before bequeathed shall be paid  
“ free of legacy duty. I devise and bequeath an annuity of  
“ 10*l.* per annum to the Reverend Thomas Fagan, parish priest  
“ of Rathconnell, during his life; an annuity of 25*l.* to Michael  
“ Ennis of Aghadoe, to be payable during his life as a remun-  
“ eration for his many years of faithful service to me; an  
“ annuity of 30*l.* to Patrick Donnellan of Aghadoe, to be payable  
“ during his life on account of the many services he has  
“ rendered me; an annuity of 12*l.* to Thomas Ennis, formerly  
“ residing on my property of Aghadoe, and now in America,  
“ by trade a plumber, to be payable during his life, and should  
“ it so happen that he dies before his mother the aforesaid  
“ annuity to be paid to her during her life; an annuity  
“ of 12*l.* per annum to my servant Thomas Keenan, to be  
“ paid to him during his life; an annuity of 12*l.* per annum  
“ to Patrick Keenan, to be paid to him during his life;  
“ an annuity of 12*l.* per annum to my servant Bridget  
“ Clinton, to be paid to her during her life; and with respect  
“ to the said annuities granted to Patrick Keenan, and  
“ also to my servants Thomas Keenan and Bridget Clinton,  
“ same are to be increased to the sum of 15*l.* per annum upon  
“ the determination of Mrs. Lube’s annuity. I also devise and  
“ bequeath an annuity of 100*l.* per annum for ever, to be  
“ payable annually, to the present Protestant Episcopal ministers  
“ of the several parishes which comprise the Poor Law Electoral  
“ Division of Cloghan, in the county of Westmeath, and their  
“ successors, together with the ex-officio and elected poor law  
“ guardians for the time being of such electoral division, upon  
“ trust to distribute the same according to their discretion  
“ amongst such poor inhabitants of such electoral division as  
“ they shall consider deserving objects of charity: Provided  
“ always, that no poor person who shall have or keep a lodging-  
“ house, or take in and keep any lodgers, at any time within  
“ six months before the period of distribution of such annuity,  
“ shall be entitled to receive any portion of same, which several  
“ annuities shall commence from my death and be payable  
“ quarterly. And I charge all the said annuities on my real  
“ estate exclusively in exoneration of my personal estate, but  
“ should the last-mentioned charitable annuity fail, in con-  
“ sequence of being charged on my real estate, in case my  
“ death should occur within three months from the making of  
“ this my will, or any other merely technical cause, then I  
“ direct my said trustee and executor to set apart for the  
“ purpose of said last-mentioned charitable annuity, out of



A.D. 1878.

“ such part of my personal estate as the law permits to be  
 “ appropriated by will to charitable purposes, in precedence to  
 “ all other claims thereon, within twelve months after my  
 “ decease, in his name, in Government funds or real securities  
 “ approved of by him, a sufficient sum at the period of appro-  
 “ priation for answering the said annuity, and in the meantime  
 “ to pay the said annuity out of my said personal estate; and  
 “ as to the residue of my said personal estate, after providing  
 “ for my debts, legacies, and such annuity (if it shall come  
 “ payable thereout) and subject to the trusts and directions  
 “ aforesaid, I direct that my executor and trustee shall call in  
 “ and invest the same in such securities as he shall think  
 “ proper, and shall pay the annual interest or produce thereof  
 “ to such person as for the time being shall be entitled to an  
 “ estate for life or other estate in possession less than an  
 “ estate of inheritance in my real estate herein-before devised,  
 “ or if such person being so entitled to an estate for life or  
 “ other estate less than an estate of inheritance in possession  
 “ shall desire it, then that my said trustee shall advance and  
 “ lend such residue, free from interest, to such person on such  
 “ security for the repayment thereof as he shall consider  
 “ sufficient, and after the determination of such estates shall  
 “ transfer and pay over the said residue, or the securities there-  
 “ for, to the person who shall first become entitled to an  
 “ estate of inheritance in possession in my said real estates,  
 “ and I declare that the receipts of my said executor and  
 “ trustee for such moneys, stocks, funds, and securities as  
 “ shall be paid and transferred to him under my will shall  
 “ effectually discharge the person paying or transferring the  
 “ same from liability to see to the application thereof. And I  
 “ declare that my said trustee shall be at liberty to reimburse  
 “ himself out of moneys coming to his hands by virtue of my  
 “ will all expenses incurred by him in executing the trusts  
 “ thereof. I also direct that from and after the expiration of  
 “ two years after the annuity of 1,500*l.* now charged on my  
 “ estates shall cease and determine my trustee and executor  
 “ shall receive and set apart the sum of 2,000*l.* every year out  
 “ of the rents and proceeds of my said real estates to pay a  
 “ charge of 12,000*l.* now charged thereon until the same shall  
 “ be paid off and discharged. In witness whereof I have to  
 “ this my will and to a duplicate thereof set my hand this  
 “ 10th day of September 1874.

“ ADOLPHUS COOKE.

A.D. 1878.

“ Signed, published, and declared by the said testator as and for  
 “ his last will and testament in the presence of us present at  
 “ the same time, who at his request and in his presence and  
 “ in the presence of each other have hereunto subscribed  
 “ our names as witnesses.

“ JAMES WM. FAIR, Solr.

“ PHILIP DONNELLAN.”

Codicil  
 dated 30th  
 March 1875.

And whereas the said Adolphus Cooke made a codicil to his said will, bearing date the thirtieth day of March one thousand eight hundred and seventy-five, which is in the words and figures following; (that is to say,)

“ This is a codicil to my last will and testament, and which is  
 “ to be attached thereto and taken as part thereof. Whereas,  
 “ by said will amongst other bequests, I bequeathed to my  
 “ servants Thomas Keenan, Patrick Keenan, and Bridget  
 “ Clinton, certain annuities for their lives as in said will  
 “ stated: Now I hereby increase said annuities, and bequeath  
 “ to them, the said Thomas Keenan, Patrick Keenan, and  
 “ Bridget Clinton, the sum of 20%. per annum each for their  
 “ natural lives in lieu of the annuities bequeathed to them by  
 “ said will, and to be paid to them as in said will stated, and  
 “ in all other respects whatsoever I confirm my said will. In  
 “ witness whereof I have to this codicil, signed in duplicate,  
 “ subscribed my name this 30th day of March 1875.

“ ADOLPHUS COOKE.

“ Signed by the testator as a codicil to his last will and testament  
 “ in our presence, both being present at the same time, who  
 “ in his presence, at his request, and in the presence of each  
 “ other have hereunto subscribed our names as witnesses.

“ J. W. FAIR, Solr.

“ PHILIP DONNELLAN.”

Further  
 codicil dated  
 27th April  
 1875.

And whereas the said Adolphus Cooke made a further codicil to his said will, bearing date the twenty-seventh of April one thousand eight hundred and seventy-five, in the words and figures following; (that is to say,)

“ This is a second codicil to my last will and testament bearing  
 “ date the 10th day of September 1874, and which is to be  
 “ attached thereto and taken as part thereof. Whereas I  
 “ omitted by my said will and by a codicil thereto bearing  
 “ date the 30th day of March 1875 to make provision for  
 “ certain servants of mine and other parties, and being now  
 “ desirous to do so: Now I hereby devise and bequeath to my  
 “ servant Marcella Coffey an annuity of 10%. per annum, to



“ be paid to her during her life, and to William Keenan and  
 “ Elizabeth Keenan, his mother, of Rathconnell, 6*l.* per  
 “ annum, to be paid to them during their joint lives and  
 “ the life of the survivor of them, said annuities to be charge-  
 “ able and payable as in my said will stated: And whereas  
 “ my faithful servant, Patrick Donnellan, from his great age  
 “ is to a certain extent unable to attend to my business, now  
 “ I direct that the trustee and executor of my said will shall  
 “ permit the said Patrick Donnellan to nominate whichever of  
 “ his sons he pleases to act in his place and discharge such  
 “ duties as the said Patrick Donnellan now discharges for  
 “ me, and I direct that said son of said Patrick Donnellan  
 “ so nominated by him shall be continued in the employment  
 “ of my said trustee and executor during the life of the said  
 “ son, and that he shall be entitled to receive and be paid the  
 “ salary of 30*l.* per annum now paid to said Patrick Donnellan,  
 “ and in all other respects whatsoever I confirm my said will  
 “ and said codicil of the 30th day of March 1875. In witness  
 “ whereof I have to this codicil and to a duplicate thereof set  
 “ my hand this 27th day of April 1875.

A.D. 1878.

“ ADOLPHUS COOKE.

“ Signed and declared by the testator as a codicil to his last will  
 “ and testament in our presence, both present at the same  
 “ time, when in his presence, at his request, and in presence  
 “ of each other have hereunto subscribed our names as  
 “ witnesses.

“ J. W. FAIR, Solicitor.

“ JOHN DONNELLAN.”

And whereas the said Adolphus Cooke made a further codicil to  
 his said will, bearing date the twenty-sixth of February one  
 thousand eight hundred and seventy-six, in the words and figures  
 following; (that is to say,)

Further  
 codicil dated  
 26th Feb-  
 ruary 1876.

“ This is a third codicil to my last will and testament, which  
 “ will bears date the 10th day of September 1874, and which  
 “ codicil is to be attached thereto and taken as part thereof.  
 “ Whereas by my said will I bequeathed a legacy of 50*l.* to be  
 “ paid by my trustee and executor to the Rev. Henry  
 “ Knox Hutchinson, vicar of Rathconnell: Now I hereby  
 “ revoke said legacy altogether, and in all other respects I  
 “ confirm my said will, and the two previous codicils thereto  
 “ bearing date respectively the 30th day of March and 27th  
 “ day of April 1875. In witness whereof I have to this  
 “ codicil, signed in duplicate, subscribed my name this 26th  
 “ day of February 1876.

“ ADOLPHUS COOKE.

A.D. 1878.

“ Signed, published, and declared by the said testator as a codicil  
“ to his last will and testament in our presence, both present  
“ at the same time, who in his presence and in presence of  
“ each other have hereunto subscribed our names as witnesses.

“ J. W. FAIR, Solicitor.

“ JOHN DONNELLAN.”

And whereas the said Adolphus Cooke died on or about the twenty-ninth day of March one thousand eight hundred and seventy-six, and the said Adolphus Cooke left no brother or sister or issue of any brother or sister him surviving, or any uncle by the father's side, or issue of any such uncle him surviving, nor any nearer relative on his father's side than Wellington Purdon hereinafter mentioned, and in the said will of the sixth of January one thousand eight hundred and seventy-four referred to as Arthur Wellington Purdon, who was grandson of Elizabeth the only sister of Robert Cooke, the father of the said Adolphus Cooke, and who was heir-at-law of the said Adolphus Cooke; and the said Adolphus Cooke had one first cousin by his mother's side, the said Reverend Morley Dennis of Enniscoffey Glebe in the county of Westmeath. The said William Lygon Earl of Longford asserted in the course of the proceedings herein-after mentioned that the said Adolphus Cooke was related to the said William Lygon Earl of Longford, but that such relationship was more distant than that between Adolphus Cooke and Wellington Purdon :

And whereas Charles Purdon of Currstown in the county of Westmeath, Esquire, M.D., the only surviving brother of the said Wellington Purdon, and Frederick Purdon and Henry Atwell Purdon, who are sons of the said Wellington Purdon, were named as devisees and legatees of certain estates and interests in the real and personal property of the said Adolphus Cooke in certain testamentary instruments previously executed by the said Adolphus Cooke, dated respectively the fifth January one thousand eight hundred and sixty-nine, the twenty-sixth of April one thousand eight hundred and sixty-nine, and the nineteenth of December one thousand eight hundred and seventy :

And whereas the said William Lygon Earl of Longford filed his declaration in Her Majesty's Court of Probate in Ireland on the fourteenth day of June one thousand eight hundred and seventy-six, and thereby propounded the said will of the said Adolphus Cooke dated the tenth day of September one thousand eight hundred and seventy-four, and the said three codicils dated respectively the thirtieth day of March one thousand eight hundred and seventy-five, the twenty-seventh day of April one thousand eight hundred and seventy-five, and the twenty-sixth day of February one thousand eight hundred and seventy-six.



A.D. 1878.

And whereas the said Charles Purdon, Frederick Purdon, and Henry Atwell Purdon delivered their pleas in the said cause on the eighteenth day of November one thousand eight hundred and seventy-six, and thereby pleaded (1) that the alleged will and codicils were not executed according to the provisions of the Statute 1 Vic. c. 26; (2) that the said Adolphus Cooke, at the respective times the said will and codicils bear date, was not of sound mind, memory, and understanding; (3) that the said deceased, at the respective times of the execution of the said alleged will and codicils, did not know and approve of the contents thereof respectively; (4) that the execution of the said alleged will and codicils respectively was obtained by the undue influence of the Reverend William Lyster and others acting with him; and (5) that the execution of the said will and codicils respectively was obtained by the fraud of the Reverend William Lyster and others acting with him:

And whereas on the twenty-fifth day of July one thousand eight hundred and seventy-six the said Wellington Purdon was served with a citation in the said cause as heir-at-law of the said Adolphus Cooke, and on the twentieth day of November one thousand eight hundred and seventy-six he pleaded pleas in the same terms as those pleaded on behalf of the said Charles Purdon, Frederick Purdon, and Henry Atwell Purdon:

And whereas on the thirteenth day of June one thousand eight hundred and seventy-six the said Wellington Purdon, Charles Purdon, Frederick Purdon, and Henry Atwell Purdon caused a summons and plaint in ejectment to be issued from the Court of Common Pleas in Ireland against the said William Lygon Earl of Longford, Richard Cooke, John Fox Goodman, and William Lyster, and all others concerned for the recovery of possession of a part of the real estate of the said Adolphus Cooke situate in the county of Westmeath:

And whereas the said proceedings were so taken for the purpose of impeaching the validity of all testamentary instruments alleged to have been executed by the said Adolphus Cooke subsequent to the said testamentary instrument of the nineteenth December one thousand eight hundred and seventy:

And whereas the said William Lygon Earl of Longford took defence for all the said lands, and the said John Fox Goodman and William Lyster also took defence for the same, but Richard Cooke, who had been a devisee in a certain other testamentary disposition of the said Adolphus Cooke dated the twenty-third day of April one thousand eight hundred and seventy-two, did not take any defence to the said action:

A.D. 1878.

And whereas the said action of ejectment came on for trial before the Right Honourable Baron Dowse and a special jury of the county of Westmeath, at the Mullingar Summer Assizes, one thousand eight hundred and seventy-six, when the jury found on the questions submitted to them that the said will of the sixth of January one thousand eight hundred and seventy-four, the said codicil of the thirteenth July one thousand eight hundred and seventy-four, the said will of the tenth of September one thousand eight hundred and seventy-four, and the said three codicils dated respectively the thirtieth March and twenty-seventh April one thousand eight hundred and seventy-five and the twenty-sixth February one thousand eight hundred and seventy-six, were duly executed, and that at the time the testator signed the same respectively, he was of sound and disposing mind, memory, and understanding, but being unable to agree on the other questions submitted to them, viz., whether the said wills and codicils hereinbefore mentioned were obtained by fraud or undue influence, the last-mentioned questions were withdrawn by the learned judge from the consideration of the jury, and a verdict was thereupon directed for the defendants by the learned judge :

And whereas a conditional order to set aside the said verdict on the ground of misdirection and for a new trial was afterwards upon the second day of November one thousand eight hundred and seventy-six granted by the Court of Common Pleas in Ireland upon the application of the plaintiffs in the said action, and cause having been shown against the said order on behalf of the defendants, upon argument the said conditional order was subsequently made absolute and accordingly a new trial of the said action was ordered to be had :

And whereas the defendant the Right Honourable William Lygon Earl of Longford duly served notice of appeal from the said order to the Court of Exchequer Chamber in Ireland, but the said appeal has not been further proceeded with :

And whereas issue having been joined in the said cause in the Court of Probate upon the pleas hereinbefore mentioned the same came on for trial before the Right Honourable the Judge of the Court of Probate and a special jury of the city of Dublin, on the sixteenth day of January one thousand eight hundred and seventy-seven, and twenty-two subsequent days, and the jury in the said cause found that the said alleged will of the tenth September one thousand eight hundred and seventy-four, and each of the said alleged codicils dated respectively the thirtieth of March and twenty-seventh of April one thousand eight hundred and seventy-five and the twenty-sixth of February one thousand eight hundred and seventy-six, had been duly executed by the said Adolphus Cooke,



that at the respective times of the execution thereof the said Adolphus Cooke was not of sound mind, memory, and understanding, and did not know and approve of the contents thereof respectively, and that the execution thereof respectively was obtained by the undue influence and by the fraud of the Reverend William Lyster, and a verdict of the said jury was on the said findings entered for the defendants the said Wellington Purdon, Charles Purdon, Frederick Purdon, and Henry Atwell Purdon :

A.D. 1878.

And whereas by an order of the Right Honourable the Judge of the Court of Probate, made in the said cause on motion on behalf of the Right Honourable the Earl of Longford to set aside the said verdict, and dated the seventh day of April one thousand eight hundred and seventy-seven, it was ordered that the findings of the jury on the several issues as to undue influence and fraud should be set aside for misdirection on the grounds that there was no evidence upon the said issues proper to have been submitted to the said jury, and also because the said findings were against the evidence and the weight of evidence given in the said cause; and it was further ordered, that the findings of the jury on the several issues as to testamentary capacity and knowledge and approval of the said alleged will and codicils should be set aside on the grounds that the verdict on such issues was against the evidence, and the weight of the evidence given on the trial of the said cause; and it was further ordered that the consideration of the costs of the said trial and of the motion of the plaintiff to set aside the said findings of the jury should be reserved; and it was further ordered that the said defendants should be at liberty to appeal from the said order as they might be advised :

Order of  
Court of  
Probate  
dated 7th  
April 1877.

And whereas the said Wellington Purdon, Charles Purdon, Frederick Purdon, and Henry Atwell Purdon duly presented their petition of appeal to the Court of Appeal in Chancery in Ireland against the said order, and the said William Lygon Earl of Longford duly put in his case by way of answer to the petition of appeal :

And whereas by the Supreme Court of Judicature Act (Ireland), 1877, the said appeal from the said order of the Court of Probate was transferred to Her Majesty's Court of Appeal in Ireland, and the said cause in the Court of Probate was transferred to the Probate and Matrimonial Division of Her Majesty's High Court of Justice in Ireland :

40 & 41 Vict.  
c. 57.

And whereas by the same Act the action of ejectment in the Court of Common Pleas was transferred to the Common Pleas Division of Her Majesty's High Court of Justice in Ireland, and the appeal from the said order of the said Court was also trans-

A. D. 1878.

ferred by the same Act to Her Majesty's Court of Appeal in Ireland:

And whereas the appeal from the said order of the Court of Probate in Ireland came on for hearing before Her Majesty's Court of Appeal in Ireland on the fifteenth day of January one thousand eight hundred and seventy-eight, and the hearing thereof was continued on the sixteenth, seventeenth, eighteenth, and nineteenth days of January one thousand eight hundred and seventy-eight:

And whereas, pending the hearing of the said appeal, by a consent in writing dated the nineteenth day of January one thousand eight hundred and seventy-eight, and signed by or on behalf of the several parties appellants and respondents to the said appeal, the substance of a proposed compromise, upon the terms therein contained and more fully set forth, was agreed upon, and it was amongst other things agreed that application should forthwith be made on behalf of all parties thereto to Her Majesty's Court of Appeal in Ireland to adjourn the hearing of the pending appeal sine die, with liberty to either party to apply to reinstate the same and to have the said hearing resumed if the approval of the Lord Chancellor to the compromise in the said consent and herein-after mentioned should be refused, the said two sons of the said William Lygon Earl of Longford being infants under the age of twenty-one years, or if Parliament should not pass the Act therein and herein-after mentioned, meaning the present Act; and it was thereby further provided that for effectuating the purposes of the said consent any more formal deed of compromise which it might be desirable to execute in substitution for or in addition to the said consent should be settled and executed as therein mentioned:

And whereas upon the application of all the said parties the hearing of the said appeal was by order of the Court of Appeal, dated the nineteenth day of January one thousand eight hundred and seventy-eight adjourned accordingly:

And whereas on the eighth day of December one thousand eight hundred and seventy-six the said Edward Michael Pakenham took by license of Her Most Gracious Majesty the Queen the surname of Cooke:

And whereas by the death of William Lord Pakenham, the eldest son of the said William Lygon Earl of Longford, the said Honourable Thomas Pakenham became his eldest son, and is commonly called Thomas Lord Pakenham:

And whereas on the first day of February one thousand eight hundred and seventy-eight the said Thomas Lord Pakenham and Edward Michael Pakenham Cooke, the only two surviving sons of



the said William Lygon Earl of Longford by the said William Lygon Earl of Longford, as their next friend, presented their petition to the Right Honourable the Lord Chancellor of Ireland, in which, after amongst other things, shortly referring to the said several wills and codicils and proceedings and proposed compromise, they prayed that the said infants might be taken into wardship, and otherwise as in such cases usual :

A.D. 1878:

And whereas by an order made in the said matter dated the twenty-second of February one thousand eight hundred and seventy-eight it was ordered that the said William Lygon Earl of Longford should be appointed guardian of the persons and fortunes of the said minors, and it was thereby further ordered as in such cases usual :

Order dated  
22nd Fe-  
bruary 1878.

And whereas an order of the Right Honourable the Lord Chancellor of Ireland was made in the said matter, and dated the eleventh day of March one thousand eight hundred and seventy-eight, in the words and figures following :—

Order dated  
11th March  
1878.

“ High Court of Justice in Ireland,  
“ Chancery Division.

“ Lord Chancellor

“ The 11th day of March 1878.

“ In the matter of the Honourable Thomas Pakenham, commonly  
“ called Lord Pakenham, and the Honourable Edward Michael  
“ Pakenham Cooke, minors.

“ A summons, dated 23rd February 1878, having been issued in  
“ this matter on behalf of the minors by the Right Honourable  
“ William Lygon Earl of Longford, the guardian of the  
“ persons and fortunes of the minors, for the purpose of  
“ obtaining the approval on their behalf of the Lord Chan-  
“ cellor of a compromise entered into by the said Earl of  
“ Longford of a suit in the Probate and Appeal Courts in  
“ respect of the will and codicils of Adolphus Cooke, late of  
“ Cookesborough in the county Westmeath, deceased, and to  
“ approve of the draft deed setting out the terms of the said  
“ compromise, and to authorise the said Earl of Longford, as  
“ guardian of the said minors, to proceed to obtain a private  
“ Act of Parliament to carry out said compromise, and  
“ counsel for the said minors having attended before the Lord  
“ Chancellor upon and on reading the said summons, the  
“ order of the 22nd February last, heads of compromise dated  
“ 19th January 1878, and certificate of counsel dated 7th  
“ March instant, both herein-after referred to ; and it appear-  
“ ing that the said Adolphus Cooke by his will dated 10th  
“ September 1874 had devised his landed estates to the minor

A.D. 1878.  

---

“ Edward Michael Pakenham Cooke for life, with remainder  
“ to his first and other sons in tail male, with remainder to  
“ the minor Lord Pakenham for life, with remainder to his  
“ first and other sons in tail male, with remainder to testator’s  
“ own right heirs, and that after various bequests he had  
“ bequeathed the residue of his personal estate in trust for  
“ the person for the time being tenant for life of his real  
“ estates, and on the determination of such estates in trust  
“ to pay over the same to the person who should first become  
“ entitled to an estate of inheritance in possession in his  
“ real estates, to which will three codicils not varying the  
“ aforesaid dispositions in favour of the minors in this  
“ matter were afterwards added, and that the validity of  
“ the said will and codicils have been litigated both in an  
“ ejectment in the Court of Common Pleas, and in the  
“ Probate Court, and that the verdict in the said ejectment  
“ suit directed in favour of the will at a trial at the  
“ Summer Assizes for the county of Westmeath had been  
“ set aside by the Court of Common Pleas and a new trial  
“ ordered, and that in the suit in the Probate Court a  
“ verdict against the will and codicils had been set aside  
“ by the judge of the said court and a new trial ordered,  
“ and that an appeal having been brought to the Court of  
“ Appeal in the Supreme Court of Judicature against such  
“ order by Wellington Purdon, Frederick Purdon, Charles  
“ Purdon, and Henry A. Purdon, defendants in said probate  
“ suit, after the said appeal had been for five days at hearing  
“ before the said Court of Appeal the compromise in the said  
“ summons mentioned was entered into and made by the said  
“ Earl of Longford as such trustee and executor, and the  
“ terms thereof reduced into a written agreement dated the  
“ 19th day of January 1878, whereby it was agreed that the  
“ real estate of the said Adolphus Cooke should be converted  
“ into money, and after certain payments therein directed the  
“ net surplus of the proceeds of such conversion and of the  
“ personal estate should be divided into two equal portions,  
“ one of which should be paid to the said Earl of Longford  
“ or his executors, or such other person as the Lord Chancellor  
“ should direct, upon the trusts expressed by the said will of  
“ Adolphus Cooke of the 10th September 1874 as to his  
“ landed estates, or upon such like trusts or with such varia-  
“ tions as might be approved by the Lord Chancellor on behalf  
“ of the minors in this matter, and by an intended Act of  
“ Parliament. And it also appearing that James Murphy and



A.D. 1878.

“ Francis Longworth Dames, two of Her Majesty’s counsel,  
 “ and the leading counsel for the Earl of Longford in the said  
 “ appeal, had in a writing signed by them, dated 7th March  
 “ instant, certified that in their opinion it was for the benefit  
 “ of the minors in this matter that the heads of compro-  
 “ mise contained in the said paper writing of the 19th  
 “ January 1878 should on their behalf be accepted and adopted,  
 “ and the Lord Chancellor having been himself President of  
 “ the Court of Appeal before which the aforesaid Appeal from  
 “ the Probate Court was being heard at the time when the  
 “ said compromise was entered into, and having been furnished  
 “ as such President with a full report of the evidence and  
 “ proceedings in the suit in the Probate Court, the Lord  
 “ Chancellor having considered the same, and being of opinion  
 “ that it is for the benefit of the minors that such agreement  
 “ for compromise as expressed in the said writing of the 19th  
 “ January 1878 should for them and on their behalf be  
 “ adopted, doth order, direct, and declare as follows: (1) That  
 “ the terms of compromise contained and expressed in the said  
 “ memorandum of the 19th January 1878 be approved for  
 “ and on behalf of the minors in this matter; (2) That the  
 “ said Earl of Longford be authorised for and on behalf of the  
 “ said minors to promote and obtain a private Act of Parlia-  
 “ ment to carry out the terms of the said compromise; (3) That  
 “ the draft of such Bill, and also of any deed that may be  
 “ executed pursuant to and in aid of the aforesaid compromise,  
 “ shall be brought into the Lord Chancellor’s chambers for his  
 “ approval, and the Lord Chancellor reserves, until the same  
 “ shall be so brought in for approval, the consideration of the  
 “ trusts to be expressed therein of the surplus moiety of  
 “ the real and personal estate of Adolphus Cooke, deceased,  
 “ which under the aforesaid compromise is to be paid to the  
 “ said Earl of Longford; (4) The said Earl of Longford is  
 “ declared entitled to his costs of this order, and of the pro-  
 “ ceedings in this matter, out of any property coming to the  
 “ minors, or either of them, from the estate of the said Adolphus  
 “ Cooke, deceased.

“ W. G. BROOKE,

“ Chief Clerk.

“ Entered in Registrar’s Office,

“ The 12th March 1878.

“ WILLIAM G. WYBRANTS, A.R.”

And whereas pursuant to the said consent by an indenture  
 dated the sixteenth day of April one thousand eight hundred

Indenture  
 dated 16th  
 April 1878.

A.D. 1878.

and seventy-eight, and expressed to be made between the said Right Honourable William Lygon Earl of Longford of the first part, the said Wellington Purdon of the second part, the said Charles Purdon of the third part, the said Frederick Purdon of the fourth part, and the said Henry Atwell Purdon of the fifth part, and a draft of which deed was by order of the Right Honourable the Lord Chancellor of Ireland dated the thirtieth March one thousand eight hundred and seventy-eight approved of on behalf of Thomas Lord Pakenham and Edward Michael Pakenham Cooke, minors, after reciting the proceedings herein-before stated, it was provided and agreed as follows :

- “ 1. The said William Lygon Earl of Longford shall forthwith  
“ proceed upon the petition to the Lord Chancellor of  
“ Ireland already lodged, which was filed to make his  
“ sons, the said Edward Michael Pakenham Cooke and  
“ Thomas Pakenham, commonly called Lord Pakenham,  
“ wards of Court, and all necessary and proper proceedings  
“ shall be taken and prosecuted without delay by and at  
“ the expense of the said Earl of Longford to obtain the  
“ approval of the Lord Chancellor of the Bill to be pre-  
“ sented to Parliament to effectuate the said compromise :
- “ 2. A Bill to effectuate the said compromise, and to carry out  
“ the several terms hereof, shall, if and so soon as the  
“ approval of the Lord Chancellor shall have been obtained,  
“ be lodged in Parliament on the petition of the several  
“ parties hereto, or such of them as may be deemed neces-  
“ sary, and the necessary and proper proceedings to have  
“ the same passed into law shall be taken and prosecuted  
“ without delay, and the parties hereto and their solicitors  
“ shall give every assistance in their power to the application  
“ for the said Act ; the carriage of the said Act shall be in  
“ the hands of the solicitors for the said Earl of Longford,  
“ and of such Parliamentary agent as he may appoint :
- “ 3. The said Act shall contain all necessary and proper clauses  
“ to effectuate the compromise and to carry out the terms  
“ herein-after provided for :
- “ 4. Upon the passing of such Act the several pleas impeaching  
“ the said alleged testamentary documents propounded by the  
“ said William Lygon Earl of Longford dated respectively  
“ the 10th day of September 1874, the 30th day of March  
“ 1875, the 27th day of April 1875, and the 26th day of  
“ February 1876, shall be withdrawn, and probate of the  
“ said documents shall and may be thereupon obtained by  
“ the said William Lygon Earl of Longford, or, in case of



“ his death, letters of administration of the personal estate  
 “ and effects of the said Adolphus Cooke, with the said  
 “ documents annexed, shall and may be obtained by the  
 “ executors of the said Earl of Longford, or by such other  
 “ person as may be nominated in his or their place by the  
 “ Lord Chancellor for Ireland in that behalf, and upon such  
 “ probate or letters of administration being obtained all the  
 “ real and personal estate which was of the said Adolphus  
 “ Cooke shall vest, and, if necessary, be, by order of Court,  
 “ vested in the person or persons to whom such probate or  
 “ letters of administration shall be granted upon the trusts  
 “ and for the purposes therein-after mentioned, and with  
 “ power to carry out the same in manner therein-after pro-  
 “ vided, and to do all acts to effectuate the arrangement  
 “ thereby made :

- “ 5. On obtaining such probate or letters of administration as  
 “ aforesaid all proper and necessary proceedings shall be  
 “ taken before the land judges of the Chancery Division  
 “ of Her Majesty’s High Court of Justice in Ireland to  
 “ have a sale of all the real estate and chattels real which  
 “ were of the said Adolphus Cooke, and as well his real  
 “ estate and chattels real as also all his personal estate  
 “ shall be sold or converted into money, or accounted for  
 “ as money, and the following payments and credits shall in  
 “ the first instance be made and allowed thereout :
- “ 1. The costs of sale and conversion ;
  - “ 2. The costs of applying for and obtaining the said Act  
 “ of Parliament ;
  - “ 3. The funeral and testamentary expenses of the said  
 “ Adolphus Cooke (excluding from such testamen-  
 “ tary expenses the costs of all the contentious pro-  
 “ ceedings in the Court of Probate in Ireland, or in the  
 “ Probate and Matrimonial Division of Her Majesty’s  
 “ High Court of Justice in Ireland, down to the date  
 “ of the said deed, but including the costs as between  
 “ solicitor and client of all affidavits of scripts and  
 “ documents filed by the said John Fox Goodman,  
 “ under any order of the Court) ;
  - “ 4. All probate, legacy, and succession duties payable to  
 “ the Crown ; but in the settlement of accounts  
 “ between the several parties all probate and  
 “ succession duty paid in respect of the moneys  
 “ payable to the several parties shall be charged  
 “ against their respective shares, so that each party

A.D. 1878.

- “ shall ultimately bear and pay the amount of all  
“ such duties payable upon or in respect of the  
“ property to which such party shall become benefi-  
“ cially entitled ;
- “ 5. All the debts of Adolphus Cooke, and all or any  
“ charges affecting the said real or personal estate,  
“ whether vested in the said William Lygon Earl of  
“ Longford or in any other person, save so far as the  
“ said estates may be sold subject thereto ;
- “ 6. The legacies and annuities payable under the said  
“ several testamentary documents, when so admitted  
“ to probate, shall be paid or provided for as therein  
“ directed, provided that it shall be lawful for the  
“ said William Lygon Earl Longford, or other the  
“ person or persons to whom such probate or letters  
“ of administration shall be granted, with the con-  
“ currence of the said Wellington Purdon, his heirs  
“ or assigns, before the said sale to commute, redeem,  
“ or compound, or obtain a release of all or any of  
“ the annuities, charges, profits appendre, or other  
“ benefits created or given by the said documents, or  
“ any of them, and thereby charged on the said  
“ estates, or any part thereof, with the consent of  
“ the person or persons entitled to or interested in  
“ the same, upon such terms and in consideration of  
“ such sum or sums of money as may be agreed on,  
“ to be paid out of the assets of the said Adolphus  
“ Cooke, and credit shall be allowed for all and every  
“ such sum or sums as shall be paid out of the real  
“ or personal estate of the said Adolphus Cooke for  
“ the purpose aforesaid.
- “ 6. After making the several payments and provisions aforesaid,  
“ the residue of the proceeds of the said real and personal  
“ estate shall be divided into two equal moieties ; the first  
“ moiety shall be paid to or retained by the said William  
“ Lygon Earl of Longford, or his executors, or such other  
“ person as may be nominated in his or their stead by the  
“ Lord Chancellor for Ireland as aforesaid, after payment  
“ out of the said moiety to the said William Lygon Earl of  
“ Longford, his executors or administrators, of all costs as  
“ between solicitor and client incurred by him in the said  
“ action or suit not herein provided to be paid out of the  
“ proceeds of the said sale upon trust and with and subject  
“ to such powers, provisions, agreements, and declarations



“ as shall most nearly correspond with the uses, trusts, A.D. 1878.  
“ powers, provisions, agreements, and declarations by the  
“ said document of the 10th day of September 1874  
“ declared of the real estates, lands, and hereditaments  
“ expressed to be thereby devised, or upon such trusts or  
“ with such variations as may be approved of by the Lord  
“ Chancellor for Ireland, and enacted by the said Act,  
“ saving and excepting the provisions in the said will with  
“ reference to the assumption of the name and arms of  
“ Cooke and the residence at Cookesborough, the said  
“ Wellington Purdon undertaking to release all the estate  
“ and interest whatsoever, whether as heir at law or in  
“ remainder or reversion or otherwise, in the said moiety,  
“ whether by reason of the said estates being by the said  
“ will expressed to be limited to the heirs and assigns of  
“ the said Adolphus Cooke, or otherwise howsoever, and  
“ to convey and assure the same for the benefit of the  
“ Honourable Edward Michael Pakenham Cooke, or other  
“ the son or sons of the said William Lygon Earl of  
“ Longford, and the heirs next of kin or issue of such  
“ son or sons, or otherwise howsoever as the Lord  
“ Chancellor shall direct; the other moiety shall be paid  
“ by the executor or administrator of the said Adolphus  
“ Cooke to the said Wellington Purdon, Charles Purdon,  
“ Frederick Purdon, and Henry Atwell Purdon, or their  
“ respective executors, administrators, or assigns, or their  
“ respective attorneys, thereto lawfully authorised upon  
“ their joint receipt :

- “ 7. The carriage of the said proceedings before the land judges  
“ for the said sale shall be placed in the hands of the  
“ solicitors for the said William Lygon Earl of Longford,  
“ but any party hereto may apply for such carriage if  
“ the said proceedings shall not be carried on without delay.  
“ Subject to the approval and orders of the land judge  
“ before whom the proceedings for such sale shall be taken,  
“ the said estates shall be divided for sale into such lots,  
“ and shall be sold in such manner as shall in the judgment  
“ of the said William Lygon Earl of Longford and Welling-  
“ ton Purdon, or in case of difference between them as  
“ shall be determined in manner herein-after provided, be  
“ deemed likely to realise the value of the said estates to the  
“ best advantage, and any of the parties hereto shall be at  
“ liberty to bid at the said sale :

A.D. 1878.

- “ 8. James Robert Stewart, junior, having been appointed  
“ receiver over the estates late of the said Adolphus  
“ Cooke by the Probate and Matrimonial Division of the  
“ High Court of Justice in Ireland, the said James Robert  
“ Stewart, junior, or failing him, such other fit and proper  
“ person as the Judge of the said Division may appoint,  
“ shall be and continue as receiver over all the real  
“ estate and chattels real of the said Adolphus Cooke until  
“ such sale as aforesaid, and as well such receiver as also  
“ James Robert Stewart, the present administrator ad litem,  
“ or such other fit and proper person as the said Judge  
“ may appoint, shall be continued over the real and  
“ personal estate of the said Adolphus Cooke respectively  
“ until the arrangements hereby made shall have been fully  
“ concluded :
- “ 9. In the ascertainment of the amount of the property to be  
“ divided as herein-before provided, all the rents, profits,  
“ dividends, income, and proceeds of all the real and  
“ personal estate of the said Adolphus Cooke, which  
“ came or shall have come to the hands of any of the  
“ parties hereto or of any person or persons by their  
“ authority or on their behalf, or to the hands of such  
“ receiver or administrator as aforesaid, shall be duly  
“ taken into account, and subject to all just credits and  
“ allowances shall be credited against any money otherwise  
“ payable to the party chargeable therewith : Provided that  
“ upon the granting of the said probate or letters of  
“ administration all moneys then in the hands of or which  
“ shall have been theretofore brought into Court or accounted  
“ for by the administrator ad litem and the receiver respec-  
“ tively, shall be divided into two equal moieties and paid  
“ as herein-before provided with reference to the moieties  
“ of the net residue produced by the said sale without  
“ waiting for the final distribution as herein-before provided  
“ of the funds to be realised by the said sale herein-before  
“ mentioned. Upon the granting of the said probate or  
“ letters of administration all necessary consents shall be  
“ signed, and all necessary proceedings shall be taken by  
“ the several parties hereto for the staying and determination  
“ of all litigation and all pending actions and contentious  
“ proceedings in respect of the premises :
- “ 10. The costs of the defendants John Fox Goodman and  
“ William Lyster in the said action of ejectment in the



- “ Court of Common Pleas shall be paid by the said William  
 “ Lygon Earl of Longford out of the herein-before firstly  
 “ mentioned moiety of the said net produce of the said sales,  
 “ and he shall indemnify all the other parties hereto against  
 “ all claims and liabilities in respect thereof :
- “ 11. The costs of the said Wellington Purdon, Charles Purdon,  
 “ Frederick Purdon, and Henry Atwell Purdon, in the said  
 “ action, and in the cause in the Court of Probate, and in  
 “ the Probate and Matrimonial Division of Her Majesty’s  
 “ High Court of Justice in Ireland, and in Her Majesty’s  
 “ Court of Appeal, shall be paid by the said Wellington  
 “ Purdon out of his own moneys, and he shall indemnify  
 “ all the other parties hereto against all claims and liabilities  
 “ on foot thereof :
- “ 12. The costs of the agreement for compromise and of these  
 “ presents, and all costs properly and necessarily incurred  
 “ from and after the date hereof by any of the parties  
 “ hereto in carrying out the arrangement hereby made,  
 “ except any costs incurred in the said minor matter, which  
 “ shall be borne exclusively by the said William Lygon Earl  
 “ of Longford, shall be paid out of the proceeds of the sale  
 “ and conversion of the said real and personal estate of the  
 “ said Adolphus Cooke :
- “ 13. Save as herein-before provided all the parties hereto shall  
 “ bear their own costs of all the proceedings and litigation  
 “ herein-before mentioned, but provision may be made for  
 “ the payment of such costs to the respective solicitors of  
 “ the said parties out of the respective moneys payable  
 “ under the said compromise to the said parties in such  
 “ manner as counsel for the said William Lygon Earl of  
 “ Longford and Wellington Purdon shall approve of :
- “ 14. Every question which may arise in the carrying out of  
 “ these presents, and in the settlement of the said Bill to  
 “ be presented to Parliament, or of any other document for  
 “ effectuating the purposes hereof, and all other questions  
 “ which it may be necessary to determine in the premises,  
 “ including any questions which may arise as to the mode  
 “ of sale of the said real estate and chattels real, the allot-  
 “ ment thereof or otherwise so as to realise the value  
 “ thereof to the best advantage, and all or any differences  
 “ and disputes which may arise touching these presents or  
 “ the construction thereof, or of any clause or thing herein  
 “ contained or in anywise relating to the carrying out of  
 “ the said arrangement, shall be and are hereby referred,

A.D. 1878.

“ on the part of the said Wellington Purdon, Charles  
 “ Purdon, Frederick Purdon, and Henry Atwell Purdon,  
 “ to Gerald Fitz-Gibbon, junior, Esquire, now Her Majesty’s  
 “ Solicitor-General for Ireland, or if he shall refuse or be  
 “ unable to act to such one of Her Majesty’s counsel in  
 “ Ireland as shall be named by them, and on the part  
 “ of the said William Lygon Earl of Longford to James  
 “ Murphy, Esquire, Q.C., or if he shall refuse or be unable  
 “ to act to such other of Her Majesty’s counsel in  
 “ Ireland as the said William Lygon Earl of Longford  
 “ shall name, and if the said counsel shall differ, the  
 “ matters in dispute shall be referred to such one of Her  
 “ Majesty’s counsel in Ireland as they shall select, and the  
 “ award or decision in writing of the said referees or referee  
 “ upon every or any such matter as aforesaid shall be  
 “ binding and conclusive upon all parties hereto :

“ 15. If the Lord Chancellor for Ireland shall refuse his ap-  
 “ proval, or if Parliament shall not pass the Act herein-  
 “ before provided for, all parties shall be remitted to their  
 “ present rights, and shall be placed exactly in the same  
 “ position in which they were immediately before the said  
 “ consent of the 19th day of January 1878 was entered  
 “ into.”

Certificate of  
 chief clerk  
 dated 24th  
 April 1878.

And whereas in pursuance of the said recited order, dated the eleventh day of March one thousand eight hundred and seventy-eight, the chief clerk of the Right Honourable the Lord Chancellor of Ireland made his certificate dated the twenty-fourth day of April one thousand eight hundred and seventy-eight in the said minor matter of Thomas Lord Pakenham and Edward Michael Pakenham Cooke, minors, and thereby certified as follows :

“ In pursuance of the directions given by the Lord Chancellor I  
 “ certify as follows :  
 “ The guardian of the wards and the Messrs. Purdon attended by  
 “ their respective solicitors ;  
 “ The draft of a Bill to be submitted to Parliament for an Act  
 “ for giving effect to a compromise of suits affecting the estates  
 “ in the counties of Westmeath and Dublin, in Ireland, late  
 “ of Adolphus Cooke, deceased, has been settled and approved  
 “ by the Lord Chancellor and is identified by my signature in  
 “ the margin of the first page thereof ;  
 “ The several instruments, facts, and events recited in the preamble  
 “ of said draft Bill have been proved.

“ WILLIAM GRAHAM BROOKE,  
 “ Chief Clerk.”



And whereas the said chief clerk's certificate was duly approved by the said Right Honourable the Lord Chancellor for Ireland :

A.D. 1878.

And whereas it would be for the benefit of all parties interested in or claiming to be interested in the subject-matters of the hereinbefore recited deed of compromise of the sixteenth day of April one thousand eight hundred and seventy-eight, including the said minors Thomas Lord Pakenham and Edward Michael Pakenham Cooke, that such effect as is by this Act given to the said deed of compromise shall be given thereto :

And whereas the objects aforesaid cannot be attained without the authority of Parliament :

Wherefore your Majesty's most dutiful and loyal subject William Lygon Earl of Longford doth 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:—

1. This Act may for all purposes be cited as the Cooke Estate Act, 1878. Short title.

2. The said will of the late Adolphus Cooke dated the tenth day of September one thousand eight hundred and seventy-four, and the three codicils thereto dated respectively the thirtieth day of March one thousand eight hundred and seventy-five, the twenty-seventh day of April one thousand eight hundred and seventy-five, and the twenty-sixth day of February one thousand eight hundred and seventy-six, shall forthwith after the passing of this Act be proved by the said Right Honourable William Lygon Earl of Longford, or in the event of his death by his executors or administrators, or such other person or persons as may be nominated in his or their place for the purpose by the Lord Chancellor for Ireland. Will and codicils of Adolphus Cooke to be proved.

3. Upon obtaining the said probate all moneys then in the hands of or which shall have theretofore been brought into court by the said administrator ad litem and the said receiver respectively, or any other such administrator or receiver, shall, in accordance with the provisions of Article 9 of the said deed of compromise in that behalf, be divided into two equal moieties, and shall belong and be paid to the like persons, and be held by them upon and for the like trusts, intents, and purposes as are by this Act prescribed with respect to the moieties of the balance of the produce of the sale of the said lands and real estate and of the residue of the personal estate. Division of moneys brought into court, &c.

4. Upon the obtaining the said probate all the lands and estates mentioned in the Schedule hereto, and other the real estate which was of the said Adolphus Cooke, shall vest and the same are hereby Estates of Adolphus Cooke vested in trust.

A D. 1878.

vested in fee simple, freed and absolutely discharged from the uses, limitations, trusts, powers, provisions, agreements, and declarations by the said will and codicils limited, provided, and declared, but subject nevertheless to the said rentcharge of one thousand five hundred pounds a year for the life of Mrs. Anne Lube, and also to the said mortgage dated second of April one thousand eight hundred and forty-one herein-before recited, and the sum of twelve thousand pounds and the interest thereon thereby secured, and to all other charges, annuities, profits à prendre, or other benefits created or given by the said will and codicils and thereby charged on the said lands and real estate, or any part thereof, and all leases affecting the same at the time of the decease of the said Adolphus Cooke, in the person or persons to whom such probate or administration shall be granted (herein-after called the said trustee or trustees) upon the trusts hereafter mentioned.

Trustees to  
sell the real  
estate.

5. The said trustee or trustees shall hold the said lands and real estate subject as aforesaid upon trust forthwith after the vesting of the same to take all necessary and proper proceedings before the Land Judges of the Chancery Division of Her Majesty's High Court of Justice in Ireland, and before any other Court, which may be necessary or expedient, to have a sale of the said lands and real estate, and shall forthwith proceed to a sale thereof, and upon such sale thereof any of the persons bound by this Act, as well as any other person, may bid for the said estates or any part or parts thereof. The said sale shall be subject to such of the said charges, annuities, profits à prendre, or other benefits affecting the said lands and real estate, or any part thereof, which shall not have before such sale been redeemed, commuted, compounded, or released. The said sale shall be carried out by the persons and in the manner in the said deed of compromise mentioned.

Application  
of proceeds  
of sale.

6. Upon such sale there shall be paid out of the proceeds thereof,—

Firstly, the costs of such sale and conversion (including therein the duties payable upon such sale) and any sums which may have been paid pursuant to the said deed of compromise to redeem, commute, compound, or release any charges, annuities, profits à prendre, or other benefits under the said will and codicils affecting the said lands and real estate, or any part thereof;

Secondly, the costs incurred in preparing, applying for, and obtaining this Act;

Thirdly, the costs of all parties of the said agreement for compromise and deed of compromise, and all costs properly and



A.D. 1878.

necessarily incurred from the date of the said compromise by any of the parties in carrying out the agreement thereby made, except any costs incurred in the said minor matter;

Fourthly, the funeral and testamentary expenses of the said Adolphus Cooke (but excluding from such testamentary expenses, the costs of all the contentious proceedings in the Court of Probate in Ireland, or in the Probate and Matrimonial Division of Her Majesty's High Court of Justice in Ireland, down to the date of the said deed of compromise, but including the costs as between solicitor and client of all affidavits of scripts and documents filed by the said John Fox Goodman under any order of the Court);

Fifthly, all probate, legacy, and succession duties payable to the Crown (but without prejudice to the arrangements made by the said deed of compromise for allocating the same on the taking of the accounts finally between the parties to the said deed);

Sixthly, all the debts of the said Adolphus Cooke, and all or any charges affecting his real or personal estate, whether the same be vested in William Lygon Earl of Longford, or in any other person, save so far as the said lands or real estate may be sold subject thereto as aforesaid;

Seventhly, the legacies payable under the said will and codicils, or any of them, which may be payable out of the real estate of the said Adolphus Cooke.

7. The personal estate of the said Adolphus Cooke, so far as the same may not have been specifically bequeathed by the said will and codicils to persons not bound by this Act, or already converted into money, shall forthwith after the probate of the said will has been obtained be converted into money, and all legacies payable thereout under the said will and codicils shall be paid.

Personal estate of Adolphus Cooke to be converted into money.

8. Subject as aforesaid, and in accordance with the provisions of the deed of compromise herein-before recited, any balance of the produce of the sale of the said lands and real estate, and all residue of the personal estate, and all net moneys to be accounted for under the said deed of compromise, shall be divided into two equal moieties, which moieties shall belong to the persons and be held upon and for the trusts, intents, and purposes herein-after mentioned; and if any dispute or question shall arise upon the taking of any account under the said deed of compromise, the same shall be referred and settled in the manner provided by Clause 14 of the said deed, and the balance of net moneys to be accounted for or paid by any person or persons under the said deed shall be ascertained accordingly.

Net balance of moneys to be divided into moieties and applied.

A.D. 1878.

Trusts of first moiety.

1. One moiety thereof shall be paid to and be held by the said William Lygon Earl of Longford, and his executors or administrators, or such other (if any) the person or persons who shall be named by the Right Honourable the Lord Chancellor of Ireland in his or their stead, upon trust in the first place to pay thereout the costs of the defendants John Fox Goodman and William Lyster in the said action of ejectment as between solicitor and client, and in the next place to pay thereout to the said William Lygon Earl of Longford, his executors, administrators, or assigns, all costs as between solicitor and client incurred by him in the said action or suit or minor matter not herein provided to be paid out of the proceeds of the said sale previous to division into the said moieties ; and subject thereto the said person or persons shall hold the net balance of the said moiety upon the following trusts ; that is to say, upon trust from time to time as occasion may serve to lay out the said moneys in the purchase of lands in Ireland held in fee simple, fee farm, or in perpetuity, or for any long term of years of which one hundred years at least shall at the time of such purchase remain unexpired, and until such purchase to hold the said moneys in all respects as if the same were freehold lands subject to the uses and trusts herein-after declared, and to pay and apply the interest, dividends, and income of such moneys until the investment thereof in land as if the same had been rents arising from freehold lands purchased pursuant to the trusts herein-before contained ; and to hold the said lands when so purchased so far as the same shall be of freehold tenure to the use of the said Edward Michael Pakenham Cooke during his life, without impeachment of waste, and from and after his decease to the use of his first and every other son successively in remainder one after the other, according to their respective seniorities, and the heirs male of their respective bodies, and in default of such issue of the said Edward Michael Pakenham Cooke to the use of the said Honourable Thomas Lord Pakenham during his life, without impeachment of waste, and from and after his decease to the use of his first and every other son successively in remainder one after the other according to their respective seniorities, and the heirs male of their respective bodies, and in default of such issue to the use of the said Edward Michael Pakenham Cooke, his heirs and assigns ; and upon trust to hold the said chattel leaseholds, (if any) so to be purchased upon such trusts, and with and subject to such powers, provisoes, agreements, and declarations as shall correspond with the uses, trusts, powers, provisoes,



agreements, and declarations herein-before limited and declared of and concerning the said freehold lands so to be purchased as aforesaid as nearly as the different tenure and quality of the premises and the rules of law and equity will permit, but not so as to increase or multiply charges or powers of charging, and so nevertheless that the said leasehold premises shall not vest absolutely in any person hereby made tenant in tail male by purchase of the said freehold lands so to be purchased unless he shall attain twenty-one years of age, but on his death under that age, shall go, devolve, and remain in the same manner as if they had been freeholds of inheritance purchased as aforesaid. And it is hereby declared that every person herein-before declared entitled to the said moiety, and the lands to be purchased therewith as tenant for life, may either before or after he or they shall be entitled in possession by deed, will, or codicil charge all or any of the said lands so to be purchased, or the moneys then representing the said moiety, hereafter called the said trust premises, with the payment of a portion or portions for his child or all or any of his children (other than an eldest or only son for the time being entitled to the first estate of inheritance in the said trust premises) with any sum or sums not exceeding in the whole the sum of five thousand pounds should there be but one child entitled, and not exceeding ten thousand pounds should there be two or more such children, to be an interest vested in and payable to such child or children at such times and in such manner and form as the person for the time being exercising the said power shall, by the instrument exercising such power or any other instrument appoint, and may (to provide for raising and payment of such portion or portions) by deed, will, or codicil appoint the trust premises charged therewith to any person or persons for any term or terms of years upon the usual trusts for securing payment of the same: Provided, nevertheless, that no portion shall become a lien on all or any part of the said trust premises or be payable unless the person or persons appointing the same shall be or become entitled to the possession or to the receipt of the rents, income, and profits of the said trust premises, or some issue of such person shall become so entitled; the said trustee or trustees may, until such investment in land, exercise as to the said moneys all powers of investment and changing investment given by law to trustees, and shall, in respect of the lands so to be purchased and conveyed to them, have powers of sale and exchange with such authority and restrictions as are provided by the 1st, 2nd, 3rd, 4th, 5th, 7th, and 10th sections

A.D. 1878.

of the statute passed in the 23rd and 24th years of the Queen, chapter 145, intituled "An Act to give to trustees, mortgagees, and others certain powers now commonly inserted in settlements, mortgages, and wills."

Trusts of  
second  
moiety.

2. The other moiety of the said real and personal estate, after the payments aforesaid, shall be paid to the said Wellington Purdon, Charles Purdon, Frederick Purdon, and Henry Atwell Purdon, or their respective executors, administrators, or assigns, or their respective attorneys thereto lawfully authorised.

Amendment  
of Article 14  
of deed of  
compromise  
as to arbitra-  
tion.

9. The provisions of Article 14 of the said deed of compromise shall extend to the settlement of any questions which may arise as to any delay in the proceedings for the sale of the said lands and real estate as well as to the mode of such sale. In case the said Gerald FitzGibbon, junior, Esquire, and James Murphy, Esquire, or such other of Her Majesty's counsel in Ireland as may be named in their place under the said deed of compromise, differ as to any matters referred to them under the said deed or this Act, and for seven days after such difference has arisen fail to select one of Her Majesty's counsel in Ireland to act as referee, the matters in dispute shall be referred to such one of Her Majesty's counsel in Ireland as the Lord Chancellor of Ireland shall appoint on the application of any of the parties on whose part the matters in dispute were referred, and the award or decision in writing of such referee so appointed by the Lord Chancellor of Ireland upon every or any such matter as aforesaid shall be binding and conclusive upon all parties to the said deed.

Provision  
where party  
to deed of  
compromise  
dies or  
becomes  
incapable.

10. If any of the parties to the said deed of compromise die or become incapable of acting before the whole of the provisions of the said deed and of this Act have been carried into effect, the personal representatives of the party so dying, or the committee of the estate of the party so becoming incapacitated, or any other person appointed by the Lord Chancellor of Ireland to act in that behalf, shall, for all purposes of the said deed and of this Act, be entitled to act in his stead, and shall also be subject to all and the like obligations, duties, and liabilities to which he would have been subject.

Recited  
agreement  
for com-  
promise con-  
firmed  
subject to  
Act.

11. Subject to the provisions of this Act the said agreement of compromise of the nineteenth day of January one thousand eight hundred and seventy-eight, as expressed in the herein-before recited deed of compromise of the sixteenth day of April one thousand eight hundred and seventy-eight, is by this Act confirmed and made binding on all parties interested, and full effect shall be given thereto accordingly.



**12.** Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to all persons and bodies politic and corporate soever, and to their respective heirs, successors, executors, and administrators (other than the persons who by this Act are expressly excepted out of this general saving), all estates, rights, titles, interests, claims, and demands whatsoever, both at law and in equity, and which they respectively now have or would have if this Act were not passed.

A.D. 1878.

General  
saving.

**13.** Provided that the following persons are excepted out of this general saving in this Act contained, and accordingly are the only persons bound by this Act; (that is to say,)

Exceptions  
from general  
saving.

1. The said William Lygon Earl of Longford ;
2. The said Thomas Lord Fakenham and his now unborn first and other sons, and the heirs male of their respective bodies, and his daughters and their heirs ;
3. The said Edward Michael Pakenham Cooke and his now unborn first and other sons, and the heirs male of their respective bodies, and his daughters, and their heirs ;
4. The said John Fox Goodman and the Reverend William Lyster, and their heirs ;
5. The said Wellington Purdon and his heirs ;
6. The said Charles Purdon and his heirs ;
7. The said Frederick Purdon and his now unborn first and other sons, and the heirs male of their respective bodies, and his heirs general ;
8. The said Henry Atwell Purdon and his now unborn first and other sons, and the heirs male of their respective bodies, and his heirs general.

**14.** This Act shall not be a Public Act, but shall be printed by the several printers of 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.

A.D. 1878.  

---

The SCHEDULE referred to in the foregoing Act.  

---

---

## THE LANDS REFERRED TO IN THE ABOVE ACT.

All that and those the towns and lands of Ballinderry, Sheoconnel, otherwise Sheaconnel, Cloughan, Porterstown, Glackstown, and Augherdeagh, Cookesborough, otherwise Magullen, part of Macetown called the Quarry Park, and Mount Robert, otherwise Lisdullen, Rathconnell, and the woods thereunto belonging, and the residue of Macetown, containing in the whole by a survey thereof made 3,300 acres, be the same more or less, all situate, lying, and being in the barony of Moyashal and Magherdeon and county of Westmeath; and also the town and lands of Furry Park, Flaggery Meadow, and the field commonly called Pierce Boyces field, containing in the whole by a survey thereof made 7 acres 2 roods and 34 perches, Irish plantation measure, be the same more or less, all situate, lying, and being in the barony of Newcastle and county of Dublin.