



CHAPTER 7.

An Act for giving effect to a compromise of certain opposing claims affecting the Estates of William Sydney Earl of Leitrim, deceased, in the Counties of Leitrim, Donegal, Galway, and Kildare, in Ireland. A.D. 1879

[21st July 1879.]

WHEREAS the Right Honourable William Sydney Earl of Leitrim, late of Lough Rynn, in the county of Leitrim, and of Manor Vaughan, in the county of Donegal (now deceased), in this Act sometimes called the testator, was at the date of his death herein-after mentioned seised of or entitled to certain landed estates and hereditaments of considerable extent situate in the counties of Leitrim, Donegal, Galway, and Kildare, in Ireland, which were chiefly held by him in fee simple and fee farm, some portions being held for certain lesser interests :

And whereas the said William Sydney Earl of Leitrim made a will, dated the 15th day of January 1859, and thereby, amongst other things, devised and bequeathed unto the trustees therein mentioned his several estates in the said counties of Leitrim, Donegal, Galway, and Kildare, (together with certain estates in the counties of Mayo and Sligo which were sold by the testator in his lifetime,) upon the trusts and purposes therein-after declared and expressed of and concerning the same ; that is to say, upon trust, in the first instance, to pay and discharge thereout such of his debts and legacies as his personal property would not be sufficient to meet, and, subject thereto, to permit and suffer Robert Bermingham Clements (now Earl of Leitrim), eldest son of the Honourable and Reverend Francis Nathaniel Clements, of Norton, in England (the testator's brother), to receive and take to his own use the rents, issues, and profits of his said estates for and during the natural life of the said Robert Bermingham Clements, and after his decease to his first and every other son and sons, and the heirs male of their bodies lawfully begotten according to seniority of age and priority of birth successively, the elder of such sons

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and the heirs male of his body being always preferred and to take before the younger of such sons and the heirs male of his body, and in default of issue male of the said Robert Bermingham Clements, or in the event of the said Robert Bermingham Clements departing this life before he should have attained his majority, or without his having married, and on fulfilment of the conditions therein-after contained and expressed, but not otherwise, to permit and suffer Henry Theophilus Clements, of Ashfield Lodge, in the county of Cavan, and Lieutenant-Colonel of the Leitrim Militia, to receive and take to his own use the rents, issues, and profits of his said estates for and during his natural life, and after his death to his first and every other son and sons and the heirs male of their bodies lawfully begotten successively according to seniority of age and priority of birth, the elder of such sons and the heirs male of his body being always preferred and to take before the younger of such sons and the heirs male of his body, and in default of issue male of the said Henry Theophilus Clements, and on fulfilment of the conditions therein-after contained and expressed, but not otherwise, to permit and suffer the Reverend Henry George Clements, second son of the late John Marcus Clements, formerly Member of Parliament for the county of Leitrim, to receive and take to his own use the rents and profits of the testator's said estates for and during his natural life, and after his decease to his first and every other son and sons, and the heirs male of their bodies lawfully begotten successively, according to seniority of age and priority of birth, the elder of such sons and the heirs male of his body being always preferred and to take before the younger and the heirs male of his body, and in default of such issue male of the said Henry George Clements, and on the fulfilment of the conditions therein-after contained and expressed, but not otherwise, to the eldest son of John Marcus Clements (the elder brother of the before-mentioned Henry George Clements), to receive and take to his own use the rents and profits of the said estates for and during his natural life, and after his decease to his first and every other son and sons, and the heirs male of their bodies lawfully begotten successively, according to seniority of age and priority of birth, the elder of such sons and the heirs male of his body being always preferred and to take before the younger and the heirs male of his body, and in default of such issue to the use of the testator's own right heirs for ever, always excepting and excluding his brother the Honourable Charles Skeffington Clements :

And whereas the testator executed a codicil to his said will, bearing date the 29th day of October 1860, and a further codicil, bearing date the 10th day of April 1862, but by neither of the said codicils did he alter or revoke the aforesaid devise :

And whereas the said William Sydney Earl of Leitrim executed another will, dated the third day of July 1875, which is in the words and figures following:

“ I, William Sydney Earl of Leitrim, hereby revoke all wills,
 “ codicils, and other testamentary dispositions heretofore
 “ made by me, and declare this to be my last will and
 “ testament.

“ It is my will that under no circumstances whatsoever shall my
 “ brother, the Honourable Charles Skeffington Clements, or
 “ either of my sisters, Lady Maria Anne Keppel or Lady
 “ Elizabeth Clements, inherit, have, take, or obtain, directly
 “ or indirectly, any part of my property or estates, landed or
 “ otherwise, or any of my goods, chattels, or money. I devise
 “ all my manors, lands, tenements, and hereditaments situate
 “ and being in the counties of Leitrim, Donegal, Galway, and
 “ Kildare, or elsewhere [in Ireland, of or to which I shall at
 “ my death be seised or entitled, or over which I shall at my
 “ death have a general power of appointment or disposition by
 “ will, to the use of Sir Richard George Augustus Levinge,
 “ Baronet, of Knockadrin Castle, in the county of Westmeath,
 “ and to the Right Honourable Hugh Law, of Fitzwilliam
 “ Square, in the city of Dublin, their executors, adminis-
 “ trators, and assigns, for the term of 1,000 years, to com-
 “ mence from the day of my decease, without impeachment
 “ of waste; nevertheless upon the trusts and with and
 “ subject to the powers, provisoes, and declarations hereafter
 “ expressed and contained concerning the same, and from and
 “ after the expiration or determination of the same term, and
 “ in the meantime subject thereto and to the trusts thereof,
 “ to the use of Henry Theophilus Clements, of Ashfield Lodge,
 “ in the county of Cavan for his life, and from and after the
 “ decease of the said Henry Theophilus Clements to the use
 “ of the first and every other son of the said Henry Theophilus
 “ Clements successively, according to their respective seni-
 “ orities, the elder of such sons and the heirs male of his
 “ body lawfully begotten being always preferred and to take
 “ before the younger of such sons and the heirs male of his
 “ body, and in default of such issue male and on fulfilment of
 “ the conditions herein-after contained and expressed, but not
 “ otherwise, to the use of John Madden, of Hilton Park, for his
 “ life, and after the decease of the said John Madden to the
 “ use of the first and every other son of the said John Madden
 “ lawfully begotten, the elder of such sons and the heirs
 “ male of his body lawfully begotten being always preferred
 “ and to take before the younger of such sons and the heirs

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“ male of his body. I devise all my money vested in the
“ public funds at 3 per cent. to my said trustees Sir Richard
“ George Augustus Levinge and the Right Honourable
“ Hugh Law upon the trusts and with and subject to the
“ powers, provisoes, and declarations hereafter expressed and
“ contained concerning the same: Provided always, and I
“ hereby declare, that every person who under this my will
“ shall become entitled as tenant for life or as tenant in tail
“ male to the actual possession, or to the receipt of the rents
“ and profits of said estates herein-before devised, shall at all
“ times thereafter retain and keep in his own possession my
“ mansion house and demesne of Lough Rynn, in the county
“ of Leitrim, and also (but subject to the provisions hereafter
“ contained) my mansion house and demesne of Manor
“ Vaughan, in the county of Donegal, including in such
“ demesnes respectively all such lands as shall actually form
“ parts thereof respectively at the time of my decease, and
“ together with all the offices, farm buildings, and gardens to
“ the said mansion houses respectively belonging, so as that the
“ same mansion houses and demesnes respectively, with their
“ respective members and appurtenances as aforesaid, may be
“ kept and used as family residences of the person or persons so
“ for the time being entitled to my estates as aforesaid: And I
“ further declare that if any person so entitled as aforesaid
“ shall not retain and keep in his own possession and control
“ my said mansion houses and demesnes respectively, with
“ the said members and appurtenances as aforesaid, or shall
“ alien or let or attempt to alien or let the same, or either of
“ them respectively, then and in every such case (but subject
“ to the provision as herein-after contained with respect to
“ Manor Vaughan and the said mansion house and demesne,
“ in the event herein-after mentioned, if the person who shall
“ so make default shall be tenant for life) the life estate
“ limited to such person shall, as from and after such default,
“ continue subsisting at law only and as a bare legal estate
“ for the preservation of the contingent remainders, and the
“ rents and profits of all the said estates, hereditaments, and
“ premises herein-before devised shall thenceforth during the
“ life of such person from time to time belong, so far as
“ regards the beneficial interest therein, and be payable to
“ the person or persons for the time being entitled to the
“ first vested estate in remainder expectant on the death of
“ such person so making default as aforesaid, and if the person
“ who shall so make default shall be tenant in tail male then
“ the limitations under which such person shall be tenant in

“ tail male shall absolutely determine, and all the said
 “ hereditaments and premises shall immediately devolve on
 “ the person next in remainder under this my will as if the
 “ person so making default as aforesaid were dead and there
 “ were a general failure of issue inheritable under such
 “ limitation in tail male: Provided always, and I hereby
 “ declare that every person hereby made tenant for life of the
 “ said hereditaments and premises herein-before devised, when
 “ he shall be entitled to the possession or the receipt of the
 “ rents and profits of the same hereditaments and premises,
 “ shall at his own expense at all times well and sufficiently
 “ maintain, amend, and keep or cause to be kept my said
 “ mansion house and demesne at Lough Rynn, with the
 “ members and appurtenances thereof as aforesaid, and also
 “ (subject to the provisions hereafter contained) my said
 “ mansion house and demesne of Manor Vaughan, with the
 “ members and appurtenances thereof as aforesaid, in good and
 “ sufficient order, repair, and condition: Provided always, and
 “ I hereby declare that if any person for the time being
 “ entitled to the said estates herein-before devised shall erect
 “ and make on any other part of my estates in the county of
 “ Donegal, or shall purchase or otherwise acquire in the said
 “ county of Donegal and convey to the uses to which my
 “ said mansion house and demesne of Manor Vaughan shall
 “ then stand limited under or by virtue of this my will any
 “ other mansion house and demesne suitable for such family
 “ residence as aforesaid, then and in such case it shall be
 “ lawful for the person or persons for the time being entitled
 “ to the said estates to use and authorise the use of my said
 “ mansion house and demesne of Manor Vaughan as a place
 “ of residence for the agent or receiver of my said Donegal
 “ estates, or to keep the said mansion house, with the offices
 “ and garden, or any of them, or any part thereof, as such
 “ agent’s or receiver’s residence, or otherwise as a place for
 “ the transaction of the business of my said estates in the
 “ county of Donegal, and to let or otherwise deal with lands
 “ attached thereto, or a part thereof, in such manner as may
 “ appear most consistent with the manor house becoming a
 “ place of business of the said estates: Provided always, and
 “ I hereby declare that, notwithstanding anything herein
 “ contained, it shall not be lawful for any person who for the
 “ time being shall be actual tenant for life of the said
 “ hereditaments and premises herein-before devised to fell,
 “ cut down, or cause or permit to be felled or cut down, any
 “ timber or timber-like trees for the time being standing or

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“ growing upon any part or parts of the said hereditaments
“ and premises, and which, in the judgment of the said Sir
“ Richard George Augustus Levinge or the said Right
“ Honourable Hugh Law, or the survivor of them, or other
“ trustees or trustee for the time being of this my will, ought
“ not, in the ordinary course of good management of an
“ estate or of the timber thereon, to be felled or cut down. I
“ charge my estates in the county of Leitrim with an annual
“ sum not exceeding three hundred pounds, which I give to
“ my said trustees for the time being, and their heirs for ever,
“ such annual sum or rentcharge to be paid by them as
“ salary or stipend for the minister for the time being
“ officiating at my private chapel in that part of my demesne
“ of Lough Rynn called Farnaught: And I direct my said
“ trustees to take all proper proceedings and adopt such
“ measures as in their discretion they shall think fit for
“ securing the appointment of a clergyman of true Protestant
“ principles by the person who shall be the tenant for life
“ for the time being, and for continuing the discharge of the
“ duties by a clergyman so appointed: And I also direct and
“ order that the sums necessary for upholding and repairing
“ the said chapel, so as to keep it fit for divine service, shall
“ be paid out of the rents and profits of my said estates by
“ the person or persons for the time being in possession of
“ my Leitrim estates, and shall be regarded as a charge
“ thereon. And I further direct that the said chapel shall
“ not be alienated, but shall at all times form a part of my
“ said estates and be used and held as appertaining to my
“ mansion house and demesne of Lough Rynn. I direct that
“ all my furniture, books, statues, plate, silver, jewels,
“ ornaments of all kinds, farming implements, &c. &c. &c.,
“ linen, and other valuables shall be regarded as passing with
“ my said estates, for the use of the person or persons who
“ shall inherit my estates under this my will, and shall be
“ regarded as heirlooms: And I further direct that the
“ interest of all my money in the funds of Great Britain, or
“ upon Government or real securities in England, Wales, or
“ Ireland, shall be from time to time, as the dividends,
“ interest, and income of the said stocks, funds, and securities
“ become due, shall be paid to the person for the time being
“ tenant for life under this my will of the said estates hereby
“ devised; but the capital that shall be invested at the
“ time of my death shall not be given to my heir, or in any
“ way diminished except it be for an investment in land, which
“ land, when so purchased, shall be added to the estates

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“ devised by this my will, and conveyed to the same uses as
 “ my said estates; it shall, however, be lawful for my trustees
 “ for the time being, if they shall think fit, but not otherwise,
 “ to sell out a sum not exceeding ten thousand pounds to
 “ assist in the building of an addition to my mansion house
 “ at Lough Rynn. I bequeath to Sydney Carolan Madden
 “ the sum of three thousand pounds, clear of legacy duty. I
 “ bequeath to my housekeeper Anne Fleming the sum of one
 “ thousand pounds if she is in my service at the time of my
 “ death, the said legacy to be paid clear of legacy duty. I
 “ bequeath to William Kincaid the sum of two hundred
 “ pounds, free of legacy duty, if he is in my service at the
 “ time of my death. I bequeath to each of my female servants
 “ not otherwise named, and who shall be in my service at the
 “ time of my death, the sum of twenty pounds each, free of
 “ legacy duty: To Alice Caroline Burges, if she is unmarried
 “ at the time of my death, the sum of two thousand pounds,
 “ free of legacy duty. I give and bequeath all money, arrears
 “ of rent, good, chattels, credits, and personal estate of which
 “ or to which I shall at the time of my death be possessed or
 “ entitled, or of which I shall at my death have power to
 “ dispose of by will (except such chattels real included in
 “ this devise herein-before contained of real estate, and except
 “ what else I otherwise dispose of by this my will or any
 “ codicil hereto,) unto the said Sir Richard George Augustus
 “ Levinge and the Right Honourable Hugh Law, their exe-
 “ cutors and administrators, upon trust that they, the said
 “ Sir Richard George Augustus Levinge and the Right
 “ Honourable Hugh Law, or the survivor of them, or the
 “ executors and administrators of such survivor, shall call
 “ in and convert into money such part thereof as shall not
 “ consist of money, and shall, by and out of the money to
 “ arise thereby and by and out of the arrears of rent and
 “ ready money of which I shall be possessed at my death, pay
 “ my funeral and testamentary expenses, debts, and legacies,
 “ and shall hold and apply all the residue of the said
 “ moneys upon trust, and with and under and subject to the
 “ powers, provisoes, and declarations which would by law
 “ be applicable. I devise and declare that my will is that
 “ such residue shall be vested in Government stock, and
 “ shall be from time to time, at the discretion of my trustees
 “ for the time being, expended upon the improvement of my
 “ estates or building an addition to my mansion house at
 “ Lough Rynn. I hereby appoint the said Sir Richard
 “ George Augustus Levinge and the Right Honourable Hugh

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“ Law executors of this my will, and I bequeath to each of
 “ my said executors the sum of one thousand pounds each.
 “ In witness I the said William Sydney Earl of Leitrim have
 “ to this my last will and testament, contained in this and
 “ preceding sheets of paper, set my hand this third day of
 “ July 1875.

“ LEITRIM.

“ Signed and acknowledged by the above-named testator William
 “ Sydney Earl of Leitrim as his last will and testament in
 “ presence of us, present at the same time, and who in his
 “ presence and in the presence of each other have hereunto
 “ subscribed our names as witnesses.

“ WILLIAM ROSE.

“ R. C. ROBERTS.”

And whereas the said William Sydney Earl of Leitrim died on the 2nd day of April 1878 without having made any later testamentary disposition, leaving the said Robert Bermingham, now Earl of Leitrim, his heir-at-law and one of his next of kin him surviving :

And whereas the said Sir Richard George Augustus Levinge, Baronet, and the Right Honourable Hugh Law, the executors in the said last-recited will named, have renounced probate of the said will :

And whereas the said Henry Theophilus Clements, in the said will named, has one son, namely, Henry John Beresford Clements, who was born upon the 22nd day of October 1869 :

And whereas the said John Madden has two sons, namely, John Clements Waterhouse Madden and Gerald Hugh Charles Madden, both of whom are minors :

And whereas the said Robert Bermingham Earl of Leitrim disputes the validity of the said will of the 3rd day of July 1875, and as one of the next of kin of the said William Sydney Earl of Leitrim has lodged a caveat against the probate of the said will in the Principal Registry of the Probate and Matrimonial Division of the High Court of Justice in Ireland :

And whereas the said Henry Theophilus Clements duly warned the said caveat on the 22nd day of November 1878 :

And whereas the said Robert Bermingham Earl of Leitrim appeared to the said warning on the 25th day of November 1878 :

And whereas the said Henry Theophilus Clements filed his declaration in the Probate and Matrimonial Division of the High Court of Justice in Ireland on the 13th day of December 1878, and thereby propounded the said will of the said William Sydney Earl of Leitrim, deceased, dated the 3rd day of July 1875 :

And whereas the said Robert Bermingham Earl of Leitrim delivered his pleas in the said cause on the 23rd day of December 1878, and thereby pleaded—

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- (1.) That the alleged will was not executed according to the provisions of the statute 1 Vic. cap. 26; and
- (2.) That the said William Sydney Earl of Leitrim at the time the said will bears date was not of sound mind, memory, and understanding:

And whereas, inasmuch as the evidence which would be adduced in respect of the testator's capacity would be conflicting, and the final determination of the opposing claims of the said Robert Bermingham Earl of Leitrim and the said Henry Theophilus Clements and his son, the said Henry John Beresford Clements, could only be arrived at after a protracted litigation, occasioning a large expenditure of money, an arrangement was come to by the articles of agreement next herein-after recited for a compromise on the terms therein appearing:

And whereas by articles of agreement, dated the 14th day of February 1879, made between the said Right Honourable Robert Bermingham Earl of Leitrim of the one part and the said Henry Theophilus Clements of the other part, after reciting, amongst other things, that the parties thereto were desirous to avoid litigation and had agreed to enter into the family arrangement and compromise therein-after contained on the conditions therein-after appearing, it was provided and agreed as follows:

- “ 1. The said Henry Theophilus Clements shall forthwith present
 - “ a petition to the Lord Chancellor of Ireland to make
 - “ his son, the said Henry John Beresford Clements, a ward
 - “ of the court; and all necessary and proper proceedings
 - “ shall be taken and prosecuted by the said Henry
 - “ Theophilus Clements without delay to obtain the
 - “ approval of the Lord Chancellor of Ireland of the said
 - “ arrangement and compromise and of the Bill to be
 - “ presented to Parliament to effectuate the same:
- “ 2. A Bill to effectuate the said arrangement and compromise
 - “ and to carry out the several terms thereof shall, if and
 - “ so soon as the approval of the Lord Chancellor of
 - “ Ireland shall have been obtained, be lodged in Parlia-
 - “ ment on the petition of the parties hereto, or of such
 - “ other parties as may be deemed necessary, 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 as well to the
 - “ application for the said Act as also in obtaining or

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- “ endeavouring to obtain the concurrence of the said
 “ John Madden and the trustees of the said will of the
 “ 3rd day of July 1875. The carriage of the said Act
 “ shall be in the hands of the said Henry Theophilus
 “ Clements and of such solicitors and parliamentary
 “ agent as he may appoint :
- “ 3. The said Act shall contain all necessary and proper clauses
 “ to effectuate the arrangement and compromise and to
 “ carry out the terms herein-after provided for :
- “ 4. Upon the passing of such Act the said caveat shall be
 “ withdrawn and probate of the alleged will of the
 “ 3rd day of July 1875 shall be granted to the executors
 “ therein named, or either of them, or, should both of
 “ them renounce administration with the said will
 “ annexed, shall be granted to the said Henry Theophilus
 “ Clements: Provided that if the said John Madden and
 “ his issue shall not be parties to or shall not be bound
 “ by the arrangement hereby made such probate or
 “ administration shall be taken out in common form
 “ only, and the same shall not in anywise prejudice or
 “ affect or be taken as any admission or evidence to
 “ prejudice or affect the Earl of Leitrim, his heirs,
 “ executors, administrators, or assigns, in any litigation
 “ which may at any time arise with the said John
 “ Madden, or any of his issue, or any person claiming
 “ through him, them, or any of them, in relation to the
 “ said estates or property :
- “ 5. Upon the granting of the said probate or administration
 “ all the trusts and provisions of the said will shall be
 “ carried out in accordance with the terms thereof, save
 “ as to the landed estates and property in the county of
 “ Donegal :
- “ 6. All the landed estates and properties of every tenure which
 “ were the property of the alleged testator and were
 “ situate in the county of Donegal (except the mansion
 “ house and demesne of Manor Vaughan, including in
 “ such demesne all such lands as actually formed part
 “ thereof at the death of the said William Sydney Earl
 “ of Leitrim, together with all the offices, farm buildings,
 “ and gardens to the said mansion house belonging,) shall
 “ be assured by all necessary parties to or shall by the
 “ said Act be vested in the said Robert Bermingham
 “ Earl of Leitrim for his life, with remainder to his first
 “ and other sons successively in tail male, and failing
 “ such issue then to the daughter or daughters of the

“ said Robert Bermingham Earl of Leitrim in equal A.D. 1879.
 “ shares as tenants in common in tail, with cross
 “ remainders between them in tail, and failing such
 “ issue then to the said Henry Theophilus Clements and
 “ the heirs male of his body, and failing such issue
 “ then to the daughter or daughters of said Henry
 “ Theophilus Clements in equal shares as tenants in
 “ common in tail, with cross remainders between them
 “ in tail, and failing such issue then to the said John
 “ Madden, and the heirs male of his body, and failing
 “ such issue then to the right heirs of the said Robert
 “ Bermingham Earl of Leitrim for ever according to the
 “ nature of the estates :

“ 7. If the said John Madden shall refuse or decline to join in
 “ this arrangement and compromise, or if it shall be
 “ found impossible to bind the issue male of the said
 “ John Madden thereby, this agreement shall be carried
 “ out as against the said Henry Theophilus Clements
 “ and his issue male, and so far as any estates, powers, or
 “ rights vested or purported to be vested in the said
 “ Henry Theophilus Clements, or any of his issue male,
 “ or of which he, they, or any of them, may now be or
 “ at any time hereafter may become empowered to
 “ dispose of under the alleged will or otherwise shall
 “ or may extend or be capable of being exercised or
 “ extended: Provided always, that this agreement shall
 “ not be binding on the said Henry Theophilus Clements
 “ unless and until the same has been sanctioned by the
 “ Lord Chancellor and confirmed by Act of Parliament
 “ so as to bind the issue of the said Henry Theophilus
 “ Clements :

“ 8. In case this agreement shall not be carried out so as to bind
 “ the said Henry Theophilus Clements and his issue male
 “ or the said John Madden and his issue male nothing
 “ herein contained shall in any way prejudice the rights
 “ of the said Robert Bermingham Earl of Leitrim or
 “ operate as any admission of the validity of the alleged
 “ will of the 3rd day of July 1875 in any proceeding
 “ which may in that event be taken by him in respect of
 “ the estates or property of the alleged testator as against
 “ or in any litigation with any person or persons not
 “ bound by this compromise; and in case the said Lord
 “ Chancellor of Ireland shall refuse his approval of this
 “ arrangement and compromise, or if Parliament shall
 “ not pass the Act herein-before provided for, all parties

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- “ shall be remitted to their present rights and shall be
 “ placed exactly in the same position in which they were
 “ immediately before the execution of these presents :
- “ 9. Until the completion of this present arrangement the said
 “ receiver or receivers, or such other receiver as the
 “ parties hereto may appoint, shall remain in possession
 “ of the said estates, and on the completion of this
 “ arrangement all rent accruing or which shall have
 “ accrued due from the death of the said alleged testator
 “ in respect of the said Donegal estates shall become the
 “ property of and be accounted for by the receiver as
 “ agent with the said Robert Bermingham Earl of
 “ Leitrim :
- “ 10. Pending the carrying out of this arrangement no legal
 “ proceedings in relation to the premises shall be insti-
 “ tuted by either of the parties to these presents :
- “ 11. Every question which may arise in the carrying out of
 “ this arrangement 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, and all or any differences and disputes
 “ which may arise touching these presents, or the con-
 “ struction thereof, or of any clause or thing herein
 “ contained, or in anywise relating to the carrying out
 “ of this arrangement, shall be and are hereby referred on
 “ the part of the said Robert Bermingham Earl of
 “ Leitrim to James Murphy, Esquire, Q.C., 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 the
 “ said Robert Bermingham Earl of Leitrim, and on the
 “ part of the said Henry Theophilus Clements to
 “ Mr. Serjeant J. Robinson, or if he shall refuse or be
 “ unable to act to such other of Her Majesty’s Counsel
 “ in Ireland as the said Henry Theophilus Clements shall
 “ name, and if the said Counsel shall differ the matter 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 the parties hereto ” :

And whereas, on the 19th day of February 1879, the said Henry John Beresford Clements, the only son of the said Henry Theophilus Clements, by the said Henry Theophilus Clements as his next friend, presented his petition to the Right Honourable the Lord High

Chancellor of Ireland, in which, after, amongst other things, shortly referring to the said will and proceedings and proposed compromise, it was prayed that the said Henry John Beresford Clements might be taken into wardship, and such further relief was sought as in such cases usual: A.D. 1879.

And whereas by an order made in the said minor matter, dated the 21st day of March 1879, it was ordered that the said Henry Theophilus Clements should be appointed guardian of the person and fortune of the said minor, and it was thereby further ordered as in such cases usual:

And whereas an order of the Right Honourable the Lord High Chancellor of Ireland was made in the said matter, dated the 19th day of April 1879, and in the words and figures following:

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

“ Lord Chancellor.

“ The 19th day of April 1879.

“ In the matter of HENRY JOHN BERESFORD CLEMENTS,
“ A minor.

“ Whereas Mr. Serjeant Robinson, Q.C., of Counsel for Colonel
“ Henry Theophilus Clements, the father and guardian of the person
“ and fortune of the said minor, appeared before the Lord Chancellor
“ for the purpose of obtaining his Lordship’s approval of a com-
“ promise entered into by the said Henry Theophilus Clements on
“ his own behalf and on behalf of the said minor of a suit now
“ pending in the Probate and Matrimonial Division of the High
“ Court of Justice in Ireland in respect of the will of the Right
“ Honourable William Sydney Earl of Leitrim, late of Lough
“ Rynn, in the county of Leitrim, and of Manor Vaughan, in the
“ county of Donegal, and of Killadoon, in the county of Kildare,
“ deceased, who died on the 2nd day of April 1878: And also for
“ the purpose of obtaining his Lordship’s approval of the terms of
“ the proposed compromise entered into by an agreement, dated
“ the 14th day of February 1879, made between the Right
“ Honourable Robert Bermingham Earl of Leitrim, nephew of the
“ said deceased, and the said Henry Theophilus Clements on his
“ own behalf and on behalf of his son the said minor: And to
“ authorise the said Henry Theophilus Clements, as guardian of
“ said minor, to proceed to obtain a private Act of Parliament to
“ carry out said compromise. Whereupon and on reading the said
“ agreement of the 14th February 1879 and the certificate of
“ Serjeant Robinson, Q.C., Andrew Porter, Q.C., and John Monroe,

A.D. 1879.

“ Q.C., counsel for the said Henry Theophilus Clements and the
“ said minor, dated the 21st day of March 1879, that it is for the
“ benefit of the minor to adopt the terms of the agreement afore-
“ said, and it appearing that there was no antagonistic interest
“ between the said Henry Theophilus Clements and the said minor :
“ And it further appearing that the said William Sydney Earl of
“ Leitrim, by his will, dated the 3rd day of July 1875, had devised
“ all the manor, lands, tenements, and hereditaments situate in the
“ counties of Leitrim, Donegal, Galway, and Kildare, or elsewhere
“ in Ireland, of or to which the said William Sydney Earl of
“ Leitrim should at his death be seised or entitled or over which
“ he should at his death have a general power of appointment or
“ disposition, to the use of Sir Richard George Augustus Levinge,
“ Baronet, and the Right Honourable Hugh Law, their executors,
“ administrators, and assigns, for the term of one thousand years,
“ upon the trusts therein declared concerning the same, and after
“ the expiration or determination of the same term, and in the mean-
“ time subject thereto and to the trusts thereof, to the use of the
“ said Henry Theophilus Clements for his life, and after his decease
“ to the first and every other son of the said Henry Theophilus
“ Clements successively in tail male with remainders over: And
“ that the said William Sydney Earl of Leitrim thereby further pur-
“ ported to devise all his money vested in the public funds at three
“ per cent. to his said trustees upon the trusts therein expressed
“ concerning the same, and to direct that all his furniture, books,
“ statues, plate, silver, jewels, ornaments of all kinds, farming
“ implements, linen, and other valuables should be regarded as
“ passing with his said estates for the benefit of the person who
“ should inherit his estates under his said will, and should be
“ regarded as heirlooms, and further to direct that the interest of
“ his money in the funds of Great Britain or upon Government or
“ real securities in England, Wales, or Ireland should from time
“ to time, as the income of the same should become due, be paid to
“ the person for the time being tenant for life under the said will to
“ the estates thereby devised: And the said Robert Bermingham
“ Earl of Leitrim having disputed the validity of the said will and
“ pleaded that same was not executed according to the provisions
“ of the statute 1 Vic. c. 26, and that the said William Sydney
“ Earl of Leitrim at the time the said alleged will bears date was
“ not of sound mind, memory, and understanding, and it appearing
“ that the evidence to be adduced in respect of the testator’s
“ capacity would be conflicting, and the Lord Chancellor having
“ considered the said agreement, and being of opinion that it is for
“ the benefit of the minor that such agreement for compromise, as
“ expressed in the said writing of the 14th February 1879, should

“ for the said minor and on his behalf be adopted, doth order and A.D. 1879.
“ declare as follows :

- “ 1. That the terms of compromise contained and expressed in
“ the said memorandum of the 14th February 1879 be
“ approved for and on behalf of the minor in this matter.
- “ 2. That the said Henry Theophilus Clements be authorised, for
“ and on behalf of the said minor, to promote and obtain
“ a private Act of Parliament to carry out the terms of
“ 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.
- “ 4. That the said Henry Theophilus Clements is declared
“ entitled to his costs of this order and of the proceedings
“ thereunder.

“ W. G. BROOKE,
“ Chief Clerk.

“ Entered in Registrar’s Office the 24th day of April 1879.

“ WILLIAM G. WYBRANTS, A.R.”

And whereas, in pursuance of the said order of the 19th day of April 1879, the chief clerk of the Right Honourable the Lord High Chancellor of Ireland made his certificate, dated the 28th day of April 1879, in the said minor matter, and thereby certified as follows :

“ In pursuance of the directions given by the Lord Chancellor
“ I certify as follows :

“ The guardian of the minor, attended by his solicitor, Messrs.
“ Reeves and Sons, solicitors for the Earl of Leitrim, also
“ attending.

“ The draft of a Bill to be submitted to Parliament for an Act
“ for giving effect to a compromise of certain opposing claims
“ affecting the estates of William Sydney Earl of Leitrim
“ deceased, in the counties of Leitrim, Donegal, Galway, and
“ Kildare in Ireland, has been settled and approved of 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 the said draft Bill have been proved.

“ The evidence produced consisted of the said draft Bill, the
“ orders in this matter, dated 21st March last and 19th April
“ instant.

A.D. 1879.

“The agreement of compromise dated 14th February 1879 in
“ said order of 19th April instant referred to.

“ Dated 28th April 1879.

“ W. G. BROOKE, Chief Clerk.

“ Approved the 28th April 1879.

“ J. T. BALL, C.”

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

And whereas it would be for the benefit of the parties who entered into the said articles of agreement herein-before recited of the 14th day of February 1879, as also of the said minor Henry John Beresford Clements, that such effect as is by this Act given to the said articles of agreement should 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 Henry Theophilus Clements 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 :

Short title.

1. This Act may for all purposes be cited as the Leitrim Estates Act, 1879.

Will of
William
Sydney
Earl of
Leitrim to
be proved
in common
form.

2. The said will of the late William Sydney Earl of Leitrim, dated the 3rd day of July 1875, shall, forthwith after the passing of this Act, be proved in common form only, and letters of administration, with the said will annexed, shall be granted to the said Henry Theophilus Clements, or such other person or persons as may be nominated in his place for the purpose by the Lord High Chancellor of Ireland : Provided always, that such administration or this Act shall not in anywise prejudice or affect, or be taken as any admission or evidence to prejudice or affect the said Robert Bermingham Earl of Leitrim, his heirs, executors, administrators, or assigns, or the said Reverend Henry George Clements, his heirs, executors, administrators, or assigns, or John Marcus Clements (the elder brother of the said Henry George Clements), his heirs, executors, administrators, or assigns, in any litigation which may at any time arise with the said John Madden, or any of his issue, or any person claiming through him, them, or any of them, in relation to the estates or property expressed to be dealt with by the said will.

3. Upon the granting of the said letters of administration, with the said will annexed, all the trusts and provisions of the said will shall be carried out in accordance with the terms thereof, save as to the Donegal estates as herein-after defined.

A.D. 1879.

Will to be carried out save as to Donegal estates.

Limitations of the Donegal estates.

4. Upon the granting of the said letters of administration, with the said will annexed, all the lands, tenements, and hereditaments of every tenure in the county of Donegal which were the property of the said William Sydney Earl of Leitrim at the time of his death, and which are specified or referred to in the Schedule to this Act, except the mansion house and demesne of Manor Vaughan, including in such demesne all such lands as actually formed part thereof at the death of the said William Sydney Earl of Leitrim, together with all the offices, farm buildings, and gardens to the said mansion house belonging, which said lands, tenements, and hereditaments in the county of Donegal (except as aforesaid) are in this Act called the "Donegal estates" shall be, and from the death of the said William Sydney Earl of Leitrim shall be deemed to have been, and are by this Act limited to the following uses; that is to say, to the use of the said Robert Bermingham Earl of Leitrim and his assigns for his life, and from and after his decease to the use of the first and every other son of the said Robert Bermingham Earl of Leitrim 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 all the daughters of the said Robert Bermingham Earl of Leitrim and the heirs of their respective bodies, in equal shares as tenants in common, and if and so often as any of the said daughters shall die without issue, then as well as to her original share as to the share or shares that shall have survived or accrued to her or to the heirs of her body, to the use of the others of the daughters of the said Robert Bermingham Earl of Leitrim and the heirs of their respective bodies in equal shares as tenants in common, and if all the daughters of the said Robert Bermingham Earl of Leitrim except one shall die without issue, then as to the entirety of the Donegal estates to the use of such one daughter of the said Robert Bermingham Earl of Leitrim and the heirs of her body, and in default of such issue to the use of the said Henry Theophilus Clements and his assigns for his life, and from and after his decease to the use of the first and every other son of the said Henry Theophilus Clements 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 all the daughters of the said Henry Theophilus Clements and the heirs of their respective bodies in equal shares as tenants in

A.D. 1879.

common, and if and so often as any of the said daughters shall die without issue, then as well as to her original share as to the share or shares that shall have survived or accrued to her or to the heirs of her body, to the use of the others of the daughters of the said Henry Theophilus Clements and the heirs of their respective bodies in equal shares as tenants in common, and if all the daughters of the said Henry Theophilus Clements except one shall die without issue, or if there shall be only one daughter of the said Henry Theophilus Clements, then as to the entirety of the Donegal estates to the use of such one or only daughter of the said Henry Theophilus Clements and the heirs of her body, and in default of such issue to the use of the said John Madden and the heirs male of his body, and in default of such issue to the use of the said Robert Bermingham Earl of Leitrim, his heirs and assigns for ever.

General
saving.

5. 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.

Persons
bound by
this Act.

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

1. The said Henry Theophilus Clements, his heirs, executors, administrators, and assigns :
2. The said Henry John Beresford Clements, his heirs, executors, administrators, and assigns :
3. Each and every other son of the said Henry Theophilus Clements and his issue male :
4. The said Robert Bermingham Earl of Leitrim, his heirs, executors, administrators, and assigns :
5. Each and every son of the said Robert Bermingham Earl of Leitrim and his issue male.

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

7. 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.

The SCHEDULE referred to in the foregoing Act.

A.D. 1879.

The LANDS, TENEMENTS, and HEREDITAMENTS referred to in the above ACT, situate in the BARONY of KILMACRENAN and COUNTY of DONEGAL, and in the said ACT called the DONEGAL ESTATES.

All that and those the towns and lands of—

Creeslough,	Umlagh and Glencho,
Drumnacarry,	Carngarrow,
Drumnaraw,	Arryheernabin,
Magheraroarty,	Ballybollaggan and Drumavoghy,
Roscad,	Ballynabrockey,
Rinnaslego,	Ballinerrick,
Dunmore,	Balloor,
Crolly, Lower,	Balliheerin,
Crolly, Upper,	Ballyhiernan,
Keeldrim otherwise Keeldrum,	Morass,
Lynagh alias Lunnagh,	Ballymichael,
Moneymore alias Danlewey,	Ballynalost,
Aghadachor,	Ballyhooriskey,
Aghalative alias Aghalatty,	Cooladerry Mountain,
Carrick, part of,	Doaghbeg,
Carrickart,	Stoakamore,
Creevagh,	Brown George,
Devlinmore,	Illanglass,
Devlinreagh,	Illanagh,
Downies,	Illanmore,
Dewnies Barr,	Doaghcrabbin,
Drumdupton,	Doaghmore,
Drumlackagh,	Doocarrick,
Lackagh Fishery,	Drumnacraig,
Dundooan, Lower,	Fallaneas,
Dundooan, Upper,	Fannavolty,
Doagh,	Glinsk,
Glenoory,	Gortnatraw, North.
Gortnalughoge,	Kinnalough,
Island Roy Reagh and Innisfaugh,	Leatbeg,
Island Roy Barr,	Leatmore,
Kill,	Magheradrummon,
Larganreagh,	Muineagh,
Derrycassin,	Murren,
Magherabeg,	Pollett,
Maghermagourigan,	Rinboy,
Ballyoughegan,	Rinmore,
Melmore,	Cooladerry,
Rawross Ferry,	Roskirk,
Rosapenna,	Killhill,
Tirloughan, part of,	Seedagh,
Tullagh,	Sessiagh,

A.D. 1879.

Shanaghdoe,	Cashleenan,
Toome,	Fawans,
Tullyconnell,	Goldrum,
Umrycam,	Meenreagh,
Ballyhork and Coshia,	Skerry,
Laddan,	Skreen, Upper and Lower,
Lurgacloghan and Killyvic,	Ballybuninabber,
Cratlagh,	Currin,
Maghernalaght,	Derriscligh,
Tullynadall,	Drumdeevin,
Carmony,	Drumlurgagh,
Cool, Upper and Lower,	Drumoghill,
Cranford,	Gortnalaragh,
Drumacaladdery,	Knocknabollan,
Golan,	Loughaskerry,
Woodquarter,	Meenbrinone,
Carrickybressil,	Stragradly, North and South,
Glasnant,	Tirargus,
Gortmacallbeg,	Tirkillin,
Gortmacallmore,	Ballykeeran,
Claggan,	Clonkillymore,
Drumbern,	Clonkillybeg,
Garrygort,	Cottian,
Garrymore,	Doon,
Gortnavern,	Drumabodan,
Kilwarry,	Drumbrick,
Milford,	Gortnaskeagh,
Milford Town,	Kilmacrenan,
Rossgarrow,	Kilmacrenan Town,
Tirhomin,	Letterfad,
Ballyscanlan, Upper and Lower,	Massareagh,
Barnes, Upper and Lower,	Procklis,
Carrownaganonagh,	Tawny, Lower, Middle, and
Carrownasaul,	Upper,

or by whatever other names, denominations, or sub-denominations the same or any of them may be known, together with all other lands, tenements, hereditaments, foreshores, and premises, situate in the said county of Donegal, and all rights relating to seaweed, and all other rights, easements, and privileges exerciseable or enjoyable in the same county, and of or to which said lands, tenements, hereditaments, foreshores, rights, easements, privileges, and premises respectively the said William Sydney Earl of Leitrim was seised or entitled in fee simple, or fee farm, or for any estate of freehold or any lesser estate, at the time of his death, saving and excepting therefrom and thereout the mansion house and demesne of Manor Vaughan, including in such demesne all such lands as actually formed part thereof at the death of the said William Sydney Earl of Leitrim, together with all the offices, farm buildings, and gardens to the said mansion house belonging.