



ANNO VICESIMO QUARTO & VICESIMO QUINTO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

## Cap. 3.

An Act for authorizing the Application for the Maintenance and Benefit of the Children of Sir *Beresford Burston M'Mahon* Baronet of certain Monies by the Will of Sir *William M'Mahon* Baronet, deceased, directed to be accumulated during the Life of Sir *Beresford Burston M'Mahon*. [1st August 1861.]

**W**HEREAS Sir *William M'Mahon*, late of *Fortfield* in the County of *Dublin*, Baronet, was at the respective Times of making his last Will and Testament and of his Death seised in Fee Simple of certain Lands and Hereditaments in the County of *Tyrone*, and also of certain Lands and Hereditaments in the County of *Clare*, herein-after called "the *Tyrone* and *Clare* Estates," and was also seised of certain Estates in the County of *Dublin*, some of which, in pursuance of certain Directions contained in his Will, since his Death have been sold, and was also possessed of considerable Personal Estate: And whereas the said Sir *William M'Mahon* duly made and published his last Will and Testament in Writing, bearing Date on or about the Second of *April*, One thousand eight hundred

[*Private.*]

*x x*

Will of Sir  
W.M'Mahon,  
dated 2d  
and April 1836.

*M'Mahon Estates Act, 1861.*

and thirty-six, and did thereby declare it to be his Intention, whilst he secured to the Child or Issue of his eldest Son (now Sir *Beresford Burston M'Mahon* Baronet), therein called his Son *Beresford*, a Devolution of his general Landed and other Property, that the surplus Income of the Residue of his Assets and Property, Real, Personal, and Mixed, after providing for the prior Charges therein-after made, should be equally, during the Lifetime of his said Son *Beresford Burston M'Mahon*, divided between all his Children in equal Shares; and he did thereby devise and bequeath all his Property, Real, Personal, and Mixed, to Sir *Robert Shaw* Baronet, to *Augustus Shaw*, since deceased, and to his Wife, *Charlotte M'Mahon*, also since deceased, and to their Heirs, Executors, and Administrators, to the Use of them, their Heirs, Executors, and Administrators, upon the Trusts and for the Purposes therein and partly herein-after mentioned, and appointed the said last-mentioned Trustees to be the Executors of his said Will; and the said Testator did direct that, subject to certain Trusts for Sale of his *Dublin* Estates, his said Trustees should receive the Rents, Issues, and Profits of all his Lands, Tenements, and Hereditaments, and the Interest, Dividends, and Income of all his other Property, and should thereout in the first instance pay the Interest of a certain Debt therein referred to and since paid, and a Jointure of One thousand two hundred Pounds *per Annum* to his said Wife (which has since determined), and should pay to his Son, the said *Beresford Burston M'Mahon*, during his Life, an Annuity thereout of One thousand Pounds *per Annum*, and in like Manner pay an Annuity of Three hundred Pounds *per Annum* to his Son *William John M'Mahon* during his Life, and after the said Payments apply the surplus Rents and Profits, Interest, Dividends, and Income of all his Property, Real, Personal, and Mixed, in and towards the Payment of certain Legacies thereby bequeathed to his other Children, as therein mentioned, in case his Personal Estate should be deficient to pay the same; and did direct that until the said Legacies should be paid, the Tenant for Life under his Will, in the event of the Death of his said Son Sir *Beresford Burston M'Mahon* before the said Legacies should be paid, should only receive Five hundred Pounds *per Annum* until said Legacies should be paid off out of the Accumulations of the said surplus Fund; and did will and direct that the surplus Fund therein mentioned should be deemed and taken to be the surplus Rents, Issues, and Profits, and Dividends, Interest, and Income of all his Property, Real, Personal, and Mixed which should remain during the Lifetime of his said Son Sir *Beresford Burston M'Mahon*, and which should be receivable by his said Trustees after performing the aforesaid Trusts; and did direct that the Balance of the said surplus Fund should be ascertained every Year by his said Trustees during the Lifetime of his said Son *Beresford Burston M'Mahon*, and that there should be first deducted the Sum of One thousand



*M'Mahon Estates Act, 1861.*

thousand two hundred Pounds, and that the same should be invested in Government Stock, and the Dividends thereof from Time to Time re-invested in like Stock, to accumulate as a Fund during the Lifetime of his said Son *Beresford Burston*, to purchase any eligible Property which might offer for Sale in the County of *Tyrone*; and did direct that the said Property, when purchased, and the said Fund in the meantime, should go and pass pursuant to the Limitations and in the same Course as the rest of his Property is thereby limited to pass from the Death of his said Son *Beresford Burston M'Mahon*; and did direct that during the Lifetime of his Son *Beresford Burston M'Mahon* the Residue of the said Balance, when ascertained, should be divided in equal Portions among all his Children living at his Death, including his said Son *Beresford Burston M'Mahon*; and did direct that such surplus Fund should only continue during the Lifetime of his said Son, and should end on his Death; and the said Testator did further direct and declare it to be his Will, that from and after the Death of his said Son *Beresford Burston M'Mahon* the Rents, Issues, and Profits, and the Dividends, Interest, and Income of all his Property, Real, Personal, and Mixed, should be paid over by his said Trustees to the First and every other Son of his said Son *Beresford Burston M'Mahon*, and the respective Heirs Male of their Bodies, according to Priority of Birth, and in default of such Issue to his Testator's Son *Robert M'Mahon* for his Life, with Remainder to his First and other Sons in Tail Male, with Remainders successively to the other Sons of the said Testator, except his Son *William John*, for their respective Lives, with Remainder to their respective Son or Sons in Tail Male, with Remainder to the Daughters of the said Testator, as therein mentioned: And whereas the said Testator duly made and published a Codicil to the said Will, bearing Date the Fourth of *August* One thousand eight hundred and thirty-six, and did thereby revoke the said Will so far as the same gave or bequeathed any Share of the said surplus Fund to his said Son *William John M'Mahon*, but in other respects confirmed the said Will: And whereas the said Sir *William M'Mahon* died in the Year One thousand eight hundred and thirty-seven without having revoked or altered the said Will, save so far as the same is revoked or altered by the said Codicil, and without having altered or revoked the said Codicil, leaving the said Sir *Beresford Burston M'Mahon* his eldest Son, and Four younger Sons, that is to say, the said *William John M'Mahon*, *Robert M'Mahon*, *Augustus M'Mahon*, and *Charles M'Mahon*, and Three Daughters, that is to say, *Charlotte*, now the Wife of *Samuel Edward MccGuire*, *Louisa*, now the Wife of *Francis Ellis*, and *Wilhelmina*, now the Wife of *Henry Shaw*, him surviving: And whereas the said Will and Codicil were duly proved in Her Majesty's Court of Prerogative in *Ireland* by the said Executors in the Month of *February* One thousand eight hundred and thirty-seven: And whereas

Codicil  
dated 4th  
August 1836.

Death of  
Sir William  
M'Mahon.

Will and  
Codicil  
proved in  
Dublin,  
February  
1837.

a Bill

*M' Mahon Estates Act, 1861.*

a Bill was filed in the Court of Chancery in *Ireland*, and a Suit instituted by the said Trustees and Executors named in the said Will, in the Year One thousand eight hundred and thirty-seven, for the Purpose of carrying the Trusts of his said Will into effect: And whereas Two of the said Trustees and Executors, Plaintiffs in the said Suit, that is to say, the said *Augustus Shaw* and the said *Charlotte*, Wife of the said Testator, have since died, and the said Sir *Robert Shaw* Baronet is now the sole surviving Trustee of the said Will, and the sole Plaintiff in the said Suit: And whereas the said Suit is still pending in the said Court: And whereas the said *Augustus M' Mahon*, One of the Sons of the said Sir *William M' Mahon*, died in the Year One thousand eight hundred and fifty-three, intestate and unmarried: And whereas the Personal Estate of the said Sir *William M' Mahon* was not sufficient for Payment of the Legacies bequeathed by his said Will, and an Amount sufficient for Payment of the said Legacies was not realized out of the Income of the surplus Fund in the said Will mentioned until the Year One thousand eight hundred and forty-four: And whereas since the said Year One thousand eight hundred and forty-four the annual Sum of One thousand two hundred Pounds has been regularly invested in the Purchase of Government Stock, and accumulated, in pursuance of the Directions contained in the said Will, and there is now standing in the Books of the Governor and Company of the Bank of *Ireland*, to the Credit of the said Cause, and to the separate Credit of "the Fund to purchase Estate in the County of *Tyrone*," a Sum of Three hundred and forty-three Pounds Five Shillings and Fourpence Cash, a Sum of One thousand and ninety-six Pounds Nine Shillings and Twopence Three *per Cent.* Consols, and a Sum of Twenty-three thousand four hundred and ninety-nine Pounds Eight Shillings and Sixpence New Three *per Cent.* Stock, being the Produce of such Accumulations to the present Time, and herein-after called the Accumulated Fund: And whereas no Part of the said Accumulated Fund has as yet been applied in the Purchase of any Estate: And whereas the Residue of the said surplus Fund has since the said Year One thousand eight hundred and forty-four been equally divided between the said Sir *Beresford Burston M' Mahon* and the other Children of the said Sir *William M' Mahon*, save the said *William John M' Mahon*, in pursuance of the Trusts of the said Will: And whereas in the Year One thousand eight hundred and thirty-eight, the said Sir *Beresford Burston M' Mahon* intermarried with *Catherine Bateson*, and there is Issue of said Marriage Eight Children, that is to say, Five Sons and Three Daughters: And whereas *William Samuel M' Mahon* is the eldest Son of the said Marriage, and has lately, that is to say, on the Ninth Day of *November* One thousand eight hundred and sixty, attained his Age of Twenty-one Years: And whereas the Real Estates devised by the Will of the said Testator, and now remaining unsold, and subject to the Trusts of



*M'Mahon Estates Act, 1861.*

of the said Will are the *Tyrone* and the *Clare* Estates, and unsold Portion of *Dublin* Estates before mentioned, and the gross annual Value of the said *Tyrone* and *Clare* Estates now amount to the Sum of Five thousand seven hundred and ninety-two Pounds Six Shillings, or thereabouts: And whereas the said *William Samuel M'Mahon* is, under the Settlement made by the said Will of the said Sir *William M'Mahon*, Tenant in Tail of the said Real Estates in Remainder expectant on the Determination of the Estates limited during the Lifetime of the said Sir *Beresford Burston M'Mahon*, and the said Sir *Beresford Burston M'Mahon*, the said *Robert M'Mahon*, *Charles M'Mahon*, *Samuel Edward MccGuire* and *Charlotte* his Wife, *Francis Ellis* and *Louisa* his Wife, *Henry Shaw* and *Wilhelmina* his Wife, are, within the Meaning of an Act, entitled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance, in Ireland*, the Protectors of the said Settlement: And whereas the said *William Samuel M'Mahon* is, under the Settlement made by the said Will of the yearly Sum of One thousand two hundred Pounds, thereby directed to be accumulated as aforesaid, Tenant in Tail in Remainder expectant on the Death of the said Sir *Beresford Burston M'Mahon* of the said Accumulated Fund: And whereas there is not within the Meaning of the said Act any Protector of the said last mentioned Settlement: And whereas the said *William Samuel M'Mahon* has Power, with the Assent of the said Protectors, to dispose of the said Real Estates for an Estate in Fee Simple in Remainder expectant on the Determination of the Estates limited during the Life of the said Sir *Beresford Burston M'Mahon*, not only as against his own Issue in Tail, but also as against all Persons whose Estates are to take effect after the Determination of the Estate Tail limited to him by the said Will: And whereas the said *William Samuel M'Mahon* has, subject to the Trust for Accumulation during the Lifetime of the said Sir *Beresford Burston M'Mahon*, absolute Power, without the Assent of any other Person, to dispose of the said Accumulated Fund and of all Accumulations thereof, not only as against his own Issue in Tail, but as against all Persons whose Estates are to take effect after the Determination of the Estate Tail to which the said *William Samuel M'Mahon* is entitled in the said Trust Fund: And whereas it would be for the Benefit of the said Estates, and of all Parties interested therein under the Will of the said Sir *William M'Mahon*, that the said *Tyrone* and *Clare* Estates should be now resettled in strict Settlement, and that the Accumulated Fund, and the Estates to be therewith purchased, should also, from and after the Death of the said Sir *Beresford Burston M'Mahon*, be settled in trust for the said *William Samuel M'Mahon* for Life, and subject to such Life Interest, in trust for securing and providing Portions for the Children of the said *William Samuel M'Mahon*; and in case he shall have no Child to take a vested Interest in the said Fund, then subject to the prior Life

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Interests



*M'Mahon Estates Act, 1861.*

Interests to be therein limited to the other Tenants for Life of the said Estates in succession, in trust for securing Portions for the Children of the next and every other Tenant for Life of the said Estates in succession until such Portions shall become vested, and so as to relieve the said "*Tyrone and Clare*" Estates from Charges for the Portions of such Children which otherwise should be charged thereon: And whereas the said Protectors of the said Settlement are willing to concur with the said *William Samuel M'Mahon* in resettling the said *Tyrone and Clare* Estates: And whereas the said *William Samuel M'Mahon* is on his Part willing to concur in resettling the said *Tyrone and Clare* Estates, and also to settle the said Accumulated Fund in manner herein-before expressed, and to execute all Deeds and do all Acts necessary for the Purposes aforesaid, provided suitable Provision for his Advancement in Life, and for his Support and Maintenance during his Father's Lifetime, be made for him: And whereas under the Limitations of the said Will no suitable Provision for the Maintenance or Advancement of the said *William Samuel M'Mahon* can be made out of the Income of the said *Tyrone and Clare* Estates during the Lifetime of the said Sir *Beresford Burston M'Mahon*: And whereas it would be more for the Benefit of the said *William Samuel M'Mahon* and of the other Children of the said Sir *Beresford Burston M'Mahon* that the said Accumulated Fund and the Income thereof, and the Monies by the said Will directed to be accumulated, should hereafter be applied to and towards his or their Support and Maintenance, or for his or their Advancement than in further Accumulations: And whereas the said Accumulated Fund and Monies could not be so applied during the Lifetime of the said Sir *Beresford Burston M'Mahon*, without the Authority of an Act of Parliament: And whereas the said Sir *Beresford Burston M'Mahon* and the said *William Samuel M'Mahon*, on or about the Fifteenth Day of *November* One thousand eight hundred and sixty, presented their Petition to the Court of Chancery in *Ireland*, stating, among other Things, the several Matters and Things herein-before stated, and also stating, as is the Fact, that they apprehended that unless a suitable Provision for the said *William Samuel M'Mahon* could be otherwise provided, he might be obliged to raise Monies for his necessary Expenditure during the Life of the said Sir *Beresford Burston M'Mahon*, by Sale or Mortgage of his reversionary Interests in the said Estates and Accumulated Fund or in either of them, and consequently that he declined, unless some such suitable Provision should be made for him, to concur in resettling the said Estates, or to settle the said Fund, and thereby to deprive himself of the Power he otherwise would have of dealing with and disposing of his reversionary Interests in the said Estates and Funds; and praying that the Lord High Chancellor would be pleased to order that it might be referred to *Edward Litton* Esquire, the Master in said Cause, or to some other Master of said Court, to inquire and report

Petition to Court of Chancery in Ireland, 15th November 1860, for Consent to Application to Parliament.



*M. Mahon Estates Act, 1861.*

report whether it would be for the Benefit of the said Estates and of the Parties interested therein under the said Will, that an Act of Parliament, to the Purport and Effect herein-after mentioned, or any like Purport, should be applied for and obtained, and in case he should be of opinion that any such Act should be applied for, to approve of and settle a Draft of such Act: And whereas upon the Sixteenth Day of *November* One thousand eight hundred and sixty the said Lord High Chancellor of *Ireland* was pleased to order that all Parties concerned should attend upon the next Day for hearing Petitions, and that due Notice should be given thereof: And whereas, in pursuance of the said Order, the Matter of the said Petition came on to be heard before his Honour the Master of the Rolls in *Ireland* on the Eleventh Day of *December* One thousand eight hundred and sixty: And whereas, upon hearing of the said Matter, and upon reading the several Documents referred to in the said Order, his Honour the said Master of the Rolls did order that it should be referred to *Edward Litton* Esquire, the Master in the said Cause, to inquire and report whether it would be for the Benefit of the *Tyrone* and *Clare* Estates devised by the Will of the said Testator Sir *William M. Mahon* Baronet, in the Pleadings in said Cause and in said Petition mentioned, and of the Parties respectively interested therein under said Will, that an Application should be made to Parliament for an Act authorizing the said Court, in case the said *William Samuel M. Mahon* should, with the Approbation of the said Court, and Consent of the Protectors of said Settlement, resettle the said Estates in strict Settlement, and also, with such Approbation, settle the Fund already accumulated in the said Cause, under the Trusts for Accumulation contained in said Will, to order and direct, notwithstanding the Trusts declared by the said Will, that the annual Sum of Twelve hundred Pounds, thereby directed to be accumulated, or any Part or Parts thereof, and also the annual Dividends or Interest of the Funds already accumulated, might thenceforth during the Lifetime of the said Sir *Beresford Burston M. Mahon* be paid to or applied towards the Support and Maintenance and for the Benefit of the said *William Samuel M. Mahon*, or, with the Consent of the said *William Samuel M. Mahon*, of the other Children of the said Sir *Beresford Burston M. Mahon*, and for that Purpose be paid to the said Sir *Beresford Burston M. Mahon*, or whether an Application for any Act of Parliament for all or any of the Purposes aforesaid or any like Purpose should be applied for; and in case the said Master should be of opinion in the Affirmative, that it should be referred to the said Master to settle and approve of the Draft of such proposed Act of Parliament, and that all Parties interested should be at liberty to appear and suggest such Alterations or Amendments in and Additions to such proposed Draft Act of Parliament, as they might think right; and further, that the said Master should be at liberty to make such

Order for  
Hearing,  
16th No-  
vember  
1860.

Petition  
heard 11th  
December  
1860.



*M'Mahon Estate Act, 1861.*

Master's Report dated 29th January 1861, in favour of Application to Parliament.

such Alterations and Amendments in and Additions to the said proposed Act as he might think fit: And whereas, in pursuance of the said Order, the said Master inquired into the Matters thereby referred to him, and by his Report made in the said Cause, bearing Date the Twenty-ninth Day of *January* One thousand eight hundred and sixty-one, has found that it would be for the Benefit of the *Tyrone* and *Clare* Estates devised by the said Will of the said Sir *William M'Mahon* Baronet, and of the Parties respectively interested therein under the said Will, that an Application should be made to Parliament for an Act authorizing the said Court of Chancery, in case the said *William Samuel M'Mahon* should, with the Approbation of the said Court, and Consent of the Protectors of said Estates, re-settle the said Estates in strict Settlement, and also, with such Approbation, settle the Funds already accumulated under the Trust for Accumulation contained in the said Will, to order and direct, notwithstanding the Trusts declared by the said Will, that the annual Sum of One thousand two hundred Pounds, thereby directed to be accumulated, or any Part or Parts thereof, and that the annual Dividends or Interest of the Funds already accumulated, should thenceforth during the Lifetime of the said Sir *Beresford Burston M'Mahon* be paid to the said *William Samuel M'Mahon* for and towards his Support and Maintenance, or, having regard to the Requirements of his younger Brothers and Sisters, and to their Rank and social Position, and to the limited Income of their Father, the said Sir *Beresford Burston M'Mahon*, to be applied by him the said *William Samuel M'Mahon*, if he shall so think fit, not only towards his own Support and Maintenance, but also towards the Support and Maintenance of his younger Brothers and Sisters, the other Children of the said Sir *Beresford Burston M'Mahon*; and that in case the said proposed Settlements should be executed, and that the said *William Samuel M'Mahon* should die in the Lifetime of the said Sir *Beresford Burston M'Mahon*, then that the said Court should be authorized to direct that the said annual Sum or any Part thereof, and the said annual Dividends or any Part thereof, should be paid during the Lifetime of the said Sir *Beresford Burston M'Mahon* to the eldest Son for the Time being of the said Sir *Beresford Burston M'Mahon* for his own Support and Maintenance, and, having regard to the Circumstances before mentioned for the Support and Maintenance of his younger Brothers and Sisters, and that in such Re-settlement of the said Estates there should be comprised Powers of Leasing, and Powers to the successive Tenants for Life to charge Portions for younger Children, and also to charge Jointures for any Women they may respectively marry, and such other usual and ordinary Powers and Provisions as the Court and Parties may think fit to insert therein, and (having regard to the absolute Powers now possessed by the said *William Samuel M'Mahon* of disposing of the said Accumulated Fund,

upon



*M'Mahon Estates Act, 1861.*

upon the Death of the said Sir *Beresford Burston M'Mahon*,) that it would be for the Benefit of the said Estates that the said Accumulated Fund or Estates to be therewith purchased should, from and after the Death of the said Sir *Beresford Burston M'Mahon*, be settled, subject to the Life Interest to be therein limited to the said *William Samuel M'Mahon*, in trust for securing and providing Portions for the Children of the said *William Samuel M'Mahon*, and in case he shall have no Child to take a vested Interest in said Fund, subject to the Life Interest to be therein limited to the other Tenants for Life of his said Estates in succession, in trust for securing and providing Portions for the Children of the next and every other Tenant for Life of the said Estates in succession, until such Portions should become vested, so as to relieve the said Estates from Charges for the Portions of such other Children which otherwise should be charged thereon; and further, that in the said Act there should be inserted a Clause, authorizing the said Court at any Time or from Time to Time, to direct that any Portion or Portions of the Capital of the said surplus Fund, not exceeding in the whole the Sum of Five thousand Pounds should be paid or applied for the Advancement in Life of the said *William Samuel M'Mahon*, or in case of his Death in the Lifetime of the said Sir *Beresford Burston M'Mahon* not leaving any Child to take a vested Interest in said Fund, for the Advancement of the eldest Son for the Time being of the said Sir *Beresford Burston M'Mahon*; and further, that a like Power of Advancement out of the said Capital of the said Fund should be given to the Trustees of the proposed Settlement of the said Fund, after the Death of the said Sir *Beresford Burston M'Mahon*; and further found that it should be provided by the said Act, that the Costs of the Petition theretofore and of Proceedings thereunder, and of obtaining the said Act, and Proceedings therein, and of the Preparation and Execution of the said proposed Settlements of the said Estates and Fund, should be paid out of said Accumulated Fund: And whereas the said Master, before signing said Report, perused and settled and endorsed his Name upon the Draft of the proposed Act for effecting the Purposes aforesaid, and approved of the Provisions therein contained: And whereas by an Order of his Honour the Master of the Rolls in *Ireland*, made in the said Cause, and bearing Date the Fifth Day of *February* One thousand eight hundred and sixty-one, it was ordered, that the said Report of the said Master should be confirmed: And whereas the Master by his Report, made in the Cause on the Fourth Day of *May* One thousand eight hundred and sixty-one, reported that he had approved and settled and indorsed his Name on Drafts of the Deeds necessary and proper for resettling the *Tyrone* and *Clare* Estates and also the Accumulated Fund respectively, and an Epitome of those Drafts is given in the Schedule to this Act annexed: And whereas the Objects herein-before referred to cannot be effected

Report confirmed by Order of Master of Rolls, dated 5th Feb. 1861.

[*Private.*]

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without



*M. Mahon Estates Act, 1861.*

without the Authority of Parliament: Therefore Your Majesty's most loyal and dutiful Subjects the said Sir *Beresford Burston M. Mahon* Baronet and *William Samuel M. Mahon* do most humbly beseech Your Majesty that it may be enacted; and be it enacted by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

If Estates resettled, Court of Chancery may set aside Trusts of Will as to Accumulated Fund.

1. In case the said *William Samuel M. Mahon* shall duly execute those Deeds, and procure the Disentailing Deed to be duly enrolled, the said annual Sum of One thousand two hundred Pounds, directed to be accumulated, and also the annual Dividends or Interest of the Fund already accumulated, shall during the Lifetime of the said Sir *Beresford Burston M. Mahon* be paid to the said *William Samuel M. Mahon* for his own Use; provided that the Amount of the Accumulated Fund to be settled shall be less by Five thousand Pounds than the Amount expressed in the Draft of the intended Settlement thereof; and the Power for the Advancement of that Sum to the said *William Samuel M. Mahon*, or any other Tenant for Life in Possession, shall be omitted from the Settlement of the Accumulated Fund; provided also, that if between the Fourth Day of *May* One thousand eight hundred and sixty-one and the Execution of those Deeds any Circumstance arises, by reason of the Death of Parties or otherwise, which, in the Opinion of the High Court of Chancery in *Ireland*, renders it necessary that those Deeds or any of them should, for the Purpose of giving Effect to the Objects of this Act, be modified, the same may, under the Order of the Court, be modified accordingly.

Provision for Maintenance and Advancement of Issue.

2. In case the said *William Samuel M. Mahon* shall duly execute those Deeds, and procure the Disentailing Deed to be duly enrolled, and he or any other Son of the said Sir *Beresford Burston M. Mahon* shall die in the Lifetime of the said Sir *Beresford Burston M. Mahon*, leaving any Issue who under the Trusts of the Settlement of the Accumulated Fund shall be actually or presumptively entitled to the Accumulated Fund or any Part of it, in remainder immediately expectant on the Death of the said Sir *Beresford Burston M. Mahon*, the Court, in its Discretion, may direct that any Part or Parts of the Principal of the Accumulated Fund to which such Issue may be so actually or presumptively entitled, or of the Interest thereof, may be applied in and towards the Advancement or Maintenance of such Issue in such Manner as the Court shall direct.

On execution of Settlements, and in case of Death of W. S. M. Mahon, in Lifetime

3. In case the said *William Samuel M. Mahon* shall duly execute those Deeds, and procure the Disentailing Deed to be duly enrolled, and shall die in the Lifetime of the said Sir *Beresford Burston M. Mahon*, without leaving Issue living at the Time of the Decease of



*M'Mahon Estates Act, 1861.*

of the said *William Samuel M'Mahon*, it shall be lawful for the said Court to direct that the said annual Sum of One thousand two hundred Pounds, or any Part or Parts thereof, and also the said annual Dividends or Interest of the Accumulated Fund not so applied for Maintenance or Advancement, shall during the Lifetime of the said *Sir Beresford Burston M'Mahon* be paid to the eldest Son for the Time being of the said *Sir Beresford Burston M'Mahon*, for and towards his Support and Maintenance, and, having regard to the Requirements of his younger Brothers and Sisters, and to their Rank and social Position, not only for and towards his own Support and Maintenance, but also for and towards the Support and Maintenance of his younger Brothers and Sisters.

of Sir B. B. M'Mahon, Court may direct Accumulated Fund to be paid to eldest Son for the Time being of the said Sir B. B. M'Mahon.

4. In case the said *William Samuel M'Mahon* shall duly execute those Deeds, and procure the Disentailing Deed to be duly enrolled, and he or any other Son of the said *Sir Beresford Burston M'Mahon* entitled to exercise the Power of jointuring to be comprised in the Settlement of the *Tyrone* and *Clare* Estates shall die in the Lifetime of the said *Sir Beresford Burston M'Mahon*, leaving a Widow, and having, in exercise of that Power, charged those Estates with any Jointure for her, the said Court may direct that any Part or Parts of the said annual Sum of One thousand two hundred Pounds, and of the annual Dividends or Interest of the Accumulated Fund, shall be paid to her, in lieu of an equivalent Part of the Jointure so charged and from Time to Time payable, provided the Sum so ordered to be paid shall not in any Case exceed the Amount of Jointure to which she would, under the Exercise of the Power aforesaid, then be entitled, out of the *Tyrone* and *Clare* Estates, in case the said *Sir Beresford Burston M'Mahon* were then dead.

Provision for Widow.

5. In case the said *William Samuel M'Mahon* shall duly execute those Deeds, and procure the Disentailing Deed to be duly enrolled, then the Five thousand Pounds, Part of the Produce of the Capital of the said Accumulated Fund, which is not to be included in the Settlement of the Accumulated Fund, shall be paid to him for his own Use, or as he shall appoint.

Court may order Portions of Capital of Accumulated Fund, not exceeding 5,000*l.* to be paid for Advancement of W. S. M'Mahon.

6. Nothing herein contained shall alter or annul all or any of the Limitations, Uses, Trusts, or Purposes declared by the said Will, or to which the said Estates or Fund are at the Time of the passing of this Act respectively limited or subjected, save so far as may be necessary to give Effect to this Act or any Order or Orders to be made in pursuance of this Act.

Saving Trusts to which said Estates subjected.

7. It shall be lawful for the said High Court of Chancery in *Ireland* to direct that the Costs, Charges, and Expenses incident to obtaining

Expenses of Act.



*M'Mahon Estates Act, 1861.*

obtaining this Act shall be paid out of the Corpus of the said Accumulated Fund.

Court may  
make further  
Orders in  
Application  
of Parties  
interested.

8. The said Court may from Time to Time, on the Application of any Person interested under this Act, make such Order or Orders for carrying the Provisions of this Act into effect, and with respect to the allowing, taxing, settling, and paying all or any of the Costs, Charges, and Expenses which shall have been incurred preparatory to or in applying for and in obtaining the passing of this Act, and carrying the same into effect and complete Execution, and in the Preparation and Execution of the said proposed Deeds, or otherwise in relation thereto, as the said Court shall think fit.

General  
Saving of  
Rights,

9. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic and Corporate, their Heirs and Successors, Executors and Administrators, (other than and except the several Persons who by this Act are expressly excepted out of this General Saving, all such Estate, Right, Title, Interest, Claim, and Demand whatsoever in or to the said Estates and Fund as they or any of them would or might have had if this Act had not passed; 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, Sir *Beresford Burston M'Mahon*, *William Samuel M'Mahon*, and the other Children of the said Sir *Beresford Burston M'Mahon*, *Robert M'Mahon*, *Charles M'Mahon*, *Samuel Edward MccGuire* and *Charlotte* his Wife, *Francis Ellis* and *Louisa* his Wife, *Henry Shaw* and *Wilhelmina* his Wife, and their respective Children, and the Heirs Male and other Descendants of their respective Bodies, and all other Persons in or to whom any Estate, Right, Title, Interest, or Claim has been limited or devised, or has descended or devolved, or shall hereafter descend or devolve under the said Will): Provided nevertheless, that the Rights of the Children of Sir *Beresford Burston M'Mahon* in respect of Portions appointed by him in their Favour, in exercise of the Power in that Behalf contained in the recited Will, are by this Act expressly saved.

Persons  
bound by  
Act.

Provision  
for Consent  
of Charles  
M'Mahon.

10. And whereas the said *Charles M'Mahon* is at present abroad, and his Consent to this Act hath not been proved: Therefore this Act or anything therein contained shall not be of any Effect as against the said *Charles M'Mahon* and his Children, and the Heirs Male and other Descendants of his Body, or as against any Person or Persons claiming by, from, through, or under him, unless and until the Consent of the said *Charles M'Mahon* shall be signified by Writing under the Hand of the said *Charles M'Mahon*, attested by at least One Witness, and enrolled in Her Majesty's High Court of Chancery in *Ireland* within



*M' Mahon Estates Act, 1861.*

within Three Years from the passing of this Act; and after the Enrolment of any such Consent the same shall be deemed Part of this Act, and shall be as binding and conclusive upon the said *Charles M' Mahon* and his Children, and the Heirs Male and other Descendants of his Body, and all Persons claiming or to claim by or under him respectively, as if such Consent had been obtained and proved before the passing of this Act; and every such Consent may be given in the Form or to the Effect following; that is to say,

‘ I Charles M' Mahon, do hereby consent to an Act of Parliament  
 ‘ passed in the Twenty-fourth Year of the Reign of Queen  
 ‘ Victoria, under the Short Title of “ M' Mahon's Estates Act, 1861 : ”  
 Provided always, that if the said *Charles M' Mahon* shall die without leaving any Child before such Consent shall have been signified, then this Clause, and the Restriction therein contained, (so far only as the same applies to or concerns the said *Charles M' Mahon* and his Children, and the Heirs Male and other Descendants of his Body, and all Persons claiming by or under him or them,) shall be absolutely void to all Intents and Purposes whatsoever.

11. In citing this Act for any Purpose it shall be sufficient to use Short Title.  
 the Expression “ *M' Mahon's Estates Act, 1861.* ”

12. This Act shall not be a Public Act, but shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized 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  
 Queen's  
 Printers to  
 be Evidence.



*M'Mahon Estates Act, 1861.*

## SCHEDULE.

## EPITOME OF DEEDS.

## I.—DISENTAILING DEED OF ESTATES AND ACCUMULATED FUND.

Parties - - - William Samuel M'Mahon, Esq. - - - - - First Part;  
 Sir Beresford Burston M'Mahon, Baronet; Robert  
 M'Mahon, Esq.; Samuel Edward MccGuire, Esq., and  
 Charlotte MccGuire his Wife; Francis Ellis, Esq., and  
 Louisa his Wife; Henry Shaw, Esq., and Wilhelmina  
 his Wife - - - - - Second Part;  
 A. B. and C. D. - - - - - Third Part.

Recites - - - That Sir William M'Mahon was seised in Fee of Tyrone and Clare  
 Estates, also of Estate in County of Dublin, and possessed of Per-  
 sonal Estate, and being so seised,  
 That he made his Will, dated 2d April 1836;  
 That he made Codicil, dated 4th August 1836;  
 That Testator died in 1837, leaving Sir Beresford Burston  
 M'Mahon, his eldest Son, and Four younger Sons, and Three  
 Daughters;  
 That Will and Codicil proved February 1837;  
 That Suit instituted;  
 The Death of Augustus M'Mahon;  
 That Personal Estate insufficient for Legacies, and the Account  
 not realized till 1844;  
 That since 1844 the annual Sum of 1,200*l.* has been accumulated  
 and invested in Stock;  
 Amount now invested, namely,  

£	343	5	4	Cash;
	1,096	9	2	Government 3 per Cent. Consols;
	23,499	8	6	Government New 3 per Cent. Stock;

 That no Part of Accumulation has been applied in the Purchase  
 of any Estate;  
 That Residue has since 1844 been equally divided between the  
 Children of Sir William M'Mahon, save William John M'Mahon;  
 That in 1838 the said Sir Beresford Burston M'Mahon married  
 Catherine Bateson, and there is Issue Eight Children;  
 That said William Samuel M'Mahon is eldest Son of the Marriage;  
 That on 9th of November 1860 he attained Age;  
 That the Suit is still proceeding;  
 That said William Samuel M'Mahon is, under the Will of Sir  
 William M'Mahon, Tenant in Tail of the Tyrone and Clare Estates  
 in remainder; and

That



*M' Mahon Estates Act, 1861.*

That the Protectors are Sir Beresford Burston M' Mahon, said Robert M' Mahon, Charles M' Mahon, Samuel Edward MccGuire and Charlotte his Wife, Francis Ellis and Louisa his Wife, and Henry Shaw and Wilhelmina his Wife;

That said William Samuel M' Mahon is Tenant in Tail in remainder of the Accumulated Fund expectant on the Death of Sir Beresford Burston M' Mahon;

That there is no Protector of said Settlement;

That an Act passed entitled "The M' Mahon Estates Act, 1861";

That said William Samuel M' Mahon is desirous of barring Estates Tail in the Tyrone and Clare Estates, and in said Accumulated Fund, and of re-settling, &c.

**Testatum** - Grant in pursuance of Fine and Recovery Act to A. B. and C. D. and their Heirs of Estates in Tyrone and Clare;

To hold to the Uses to be declared by a Deed of even Date, being Re-settlement of Estates.

**Second Testatum** - Assignment in pursuance of the Act of Accumulated Fund, namely,

£	343	5	4	Cash;
	1,096	9	2	Government 3 per Cent. Consols;
	23,499	8	6	Government New 3 per Cent. Stock.

To said A. B. and C. D., upon trust as to so much of the said Stock as at the Price of the Day shall be equivalent to 5,000*l.* in trust for William Samuel M' Mahon, his Executors, Administrators, and Assigns, and as to the Residue of said Stock upon the Trusts to be declared by Deed of even Date, being Re-settlement of Accumulated Fund, No. 3.

**Covenant** - That the said Stocks, &c. should henceforth be deemed Personal Estate.

## II.—RE-SETTLEMENT of the TYRONE and CLARE ESTATES.

**Parties** - William Samuel M' Mahon - of the First Part;

Sir Beresford Burston M' Mahon, Robert M' Mahon, Samuel Edward MccGuire and Charlotte his Wife, Francis Ellis and Louisa his Wife, Henry Shaw and Wilhelmina Shaw his Wife - of the Second Part;

And \_\_\_\_\_ and \_\_\_\_\_ - of the Third Part.

**Recites** - Disentailing Deed as to the Estates.

**Testatum** - That the Trustees should stand seised of the Tyrone and Clare Estates (subject during the Life Estate of Sir Beresford Burston M' Mahon to the Trusts declared by the Will and to the Annuities) to the Uses upon the Trusts following; that is to say,

To the Use of William Samuel M' Mahon for Life; Remainder  
To his First and other Sons in Tail Male; Remainder

To



*M'Mahon Estates Act, 1861.*

To the Use of Robert Bateson, the Second Son of Sir Beresford Burston M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ; Remainder

To the Use of Beresford Burston, Third Son of Sir Beresford Burston M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ; Remainder

To the Use of Gerald Charles, Fourth Son of Sir Beresford Burston M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ; Remainder

To the Use of Lionel, Fifth Son of Sir Beresford Burston M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ;

To the Use of every after-born Son of Sir Beresford Burston M'Mahon, in Tail Male ; Remainder

To the Use of Robert M'Mahon, Third Son of Sir William M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ; Remainder

To the Use of Charles M'Mahon, Fourth Son of Sir William M'Mahon, for Life ; Remainder

To his First and other Sons in Tail Male ; Remainder

To the Use of the Daughters of William Samuel M'Mahon, in Tail, with Cross Remainders between them ; Remainder

To the Use of the Daughters of Robert Bateson M'Mahon, Second Son of Sir Beresford Burston M'Mahon in Tail, with Cross Remainders ; Remainder

To the Use of the Daughters of Beresford Burston M'Mahon, Third Son of Sir Beresford Burston M'Mahon, with Cross Remainders ; Remainder

To the Use of the Daughters of Gerald Charles M'Mahon, Fourth Son of Sir Beresford Burston M'Mahon, with Cross Remainders ; Remainder

To the Use of the Daughters of Lionel M'Mahon, Fifth Son of Sir Beresford Burston M'Mahon, with Cross Remainders ; Remainder

To the Use of every after-born Son, &c. of Sir Beresford Burston M'Mahon in Tail ; Remainder

To the Use of the Daughters of Robert M'Mahon, Third Son of Sir William M'Mahon, in Tail, with Cross Remainders between them ; Remainder

To the Use of the Daughters of Charles M'Mahon, in Tail, with Cross Remainders ; Remainder

To the Uses, &c. declared by the Will of Sir William M'Mahon, in remainder after the Estates thereby limited to the Sons of said Sir William M'Mahon, and their First and other Sons in Tail, and such Trusts, &c. as are by said Will declared in favour of the Daughters of the Testator, and their First and other Sons, in default of Issue of Charles M'Mahon, the youngest Son.

Powers

For William Samuel M'Mahon and every other Tenant for Life to Jointure not exceeding 1,000*l.* per Annum, provided that the Estates should not be at any Time liable to more than 2,000*l.* per Annum for Jointure ;



*M. Mahon Estates Act, 1861.*

To charge Portions for younger Children, not exceeding 10,000*l.*, provided those Estates shall not at any One Time be liable to more than 20,000*l.* for such Portions, and also that the Power shall not be exercised by any Tenant for Life whose Children shall become entitled to Accumulated Fund.

Power of Sale and Exchange; the Produce to be invested in the Purchase of Lands, to be settled to same Uses.

Leasing Power.

To appoint new Trustees.

Trustees Indemnity Clause.

## III.—RE-SETTLEMENT OF ACCUMULATED FUND.

- Parties - William Samuel M'Mahon - of the First Part;  
 Sir Beresford Burston M'Mahon, Bart.;  
 Robert M'Mahon, Esq.; Samuel Edward  
 McGuire, Esq., and Charlotte Mcguire his  
 Wife; Francis Ellis, Esq., and Louisa his Wife;  
 Henry Shaw, Esq., and Wilhelmina his Wife, of the Second Part;  
 And A. B. and C. D. - of the Third Part.
- Recites - Disentailing Deed of even Date, as to Accumulated Fund.
- Testatum - That the said A. B. and C. D., after the Death of Sir Beresford  
 Burston M'Mahon, should stand possessed of the Funds, with Power  
 to vary Investments, upon the Trusts following:  
 For William Samuel M'Mahon, for Life; Remainder  
 For his Children, as he should appoint, and in default of Ap-  
 pointment for all his Children who, being Sons should attain 21  
 years, or being Daughters should do so, or marry; Remainder  
 For Robert Bateson M'Mahon, Second Son of Sir Beresford  
 Burston M'Mahon, for Life; Remainder  
 For his Children as he should appoint, and in default of Appoint-  
 ment for all his Children who, being Sons, should attain 21 Years,  
 or, being Daughters, should do so, or marry; Remainder  
 For Beresford Burston M'Mahon, Third Son of Sir Beresford  
 Burston M'Mahon, for Life; Remainder  
 For his Children, as he should appoint, and in default of  
 Appointment for all his Children who, being Sons, should attain  
 21 Years, or, being Daughters, should do so or marry; Remainder  
 For Gerald Charles M'Mahon, the Fourth Son of Sir Beresford  
 Burston M'Mahon, for Life; Remainder  
 For his Children, as he should appoint, and in default of Appoint-  
 ment for all his Children who, being Sons, should attain 21 Years,  
 or, being Daughters, should do so or marry; Remainder  
 For Lionel M'Mahon, the Fifth Son of said Sir Beresford Burston  
 M'Mahon, for Life; Remainder  
 For his Children, as he should appoint, and in default of  
 Appointment for all his Children who, being Sons, should attain 21  
 Years, or, being Daughters, should do so or marry; Remainder  
 For after-born Sons of Sir Beresford Burston M'Mahon attaining  
 21; Remainder.

[Private.]



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*M'Mahon Estates Act, 1861.*

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For Robert M'Mahon, Third Son of Sir William M'Mahon, for Life ; Remainder

For his Children as he should appoint, and in default of Appointment for all his Children who, being Sons, should attain 21 Years, or, being Daughters, should do so or marry ; Remainder

For Charles M'Mahon, the Fourth Son of Sir William M'Mahon, for Life ; Remainder

For his Children, as he should appoint, and in default of Appointment for all his Children who, being Sons, should attain 21 Years, or, being Daughters, should do so, or marry.

Hotchpot Clause.

In case no Child of Charles M'Mahon who shall attain a vested Interest, &c.,

Upon trust for the Daughters of Sir William M'Mahon as under Trusts of his Will.

Powers - - - For Advancement and Maintenance and Education of Children out of Principal and Interest of Securities and Trust Funds.

To appoint new Trustees.

Trustees Indemnity Clauses.

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