



ANNO QUINQUAGESIMO QUARTO

GEORGI II. REGIS.

Cap. 142.

An Act to complete the Purposes of an Act, intituled
*An Act for inclosing Lands in the Parishes of Kirk-
dale and Helmsley, in the North Riding of the County
of York.* [17th June 1814.]

WHEREAS an Act was passed in the Forty-sixth Year of the
Reign of His present Majesty, intituled *An Act for inclosing* 46 G. 3.
*Lands in the Parishes of Kirkdale and Helmsley, in the North
Riding of the County of York*: And whereas (after reciting that there were
within the Township of *Wombleton*, in the Parish of *Kirkdale*, in the North
Riding of the County of *York*, certain open and uninclosed Fields, Lands,
and Grounds, therein described; and also that there were in the Town-
ship of *Nawton*, in the Parish of *Kirkdale* aforesaid, and in the Township
of *Harom*, in the Parish of *Helmsley*, in the North Riding of the County
of *York*, certain Common or Waste Lands therein described; and that all
such Lands and Grounds contained Nine hundred and fifty Acres, or
thereabouts; and further reciting, that *Charles Duncombe* Esquire was
Lord of the several Manors of *Wombleton* and *Harom* aforesaid, and also
Impropriator of the Rectory of *Helmsley*, and Patron of the Vicarage and
Parish Church of *Helmsley* aforesaid; and the Reverend *George Dixon* Clerk
was Vicar of the said Vicarage; and *John Whytehead* Esquire was Lord of
the Manor of *Nawton* aforesaid; and the Chancellor, Masters and Scholars
of the University of *Oxford* were Impropriators of the Impropriate Rectory
of *Kirkdale* aforesaid; and the said *John Whytehead* was entitled to the be-
neficial Estate and Interest of the said Impropriate Rectory of *Kirkdale*, by
virtue of a Lease for Years, from or under the said Chancellor, Masters
and Scholars; and that the said *Charles Duncombe*, *William Watson*, and
others, were Owners and Proprietors of all the Messuages, Cottages,
Frontsteads, Lands, Grounds and Hereditaments in the said Township of
Harom, the whole of which were Freehold; and the said *Charles Duncombe*,
the said Chancellor, Masters and Scholars, and the said *John Whytehead*,

[Loc. & Per.]

29 C

as

41 G. 3. c. 109.

as their Lessee, and also in his own Right, *John Shepherd* Esquire, and several other Persons, were respectively Owners and Proprietors of all the Messuages, Cottages, Frontsteads, Lands, Grounds and Hereditaments in the said Township of *Wombleton* and *Nawton*, the greatest Part whereof were Freehold, and the Residue Copyhold and Leasehold for Lives and Years; and also reciting, that an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*) it was by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty enacted, that *Edward Cleaver* of *Nunnington*, in the County of *York*, and *John Tuke* of *Lingcroft*, in the said County, Gentlemen, should be and they were thereby appointed Commissioners for dividing, allotting, and inclosing the said Lands and Grounds, and for carrying the said Acts into Execution; save and except such Parts of the said last recited Act as are by the first recited Act altered or varied; and it was by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty further enacted, that for the Purpose of settling and determining any Difference or Dispute that might arise between the said Commissioners, touching or concerning any of the Matters and Things to be by them done and performed in pursuance of the said recited Acts, the said Commissioners should immediately after the taking and subscribing the Oath and Affirmation therein directed to be by them taken and subscribed, by Writing under their Hands, choose, nominate, and appoint some other proper and skilful Person (not interested in the said Lands and Grounds), who should be willing and consent to act as Umpire; and such Umpire was thereby authorized and required to hear and determine any such Difference or Dispute as might arise between the said Commissioners, touching any Matter or Thing relating to the said Division and Inclosure; and that the Judgment and Determination of the said Umpire therein should be deemed and considered to be the Judgment and Determination of the said Commissioners, and should be final and conclusive upon the said Commissioners, and upon all other Persons concerned in the said Division and Inclosure, so far as the Acts of the said Commissioners are by the said recited Act made final and conclusive: Provided always, that in case the Person so nominated and appointed by the said Commissioners as Umpire should die, or refuse to act, or become incapable of acting in the Execution of the said first recited Act, then and in every such Case it should be lawful for the said Commissioners to nominate and appoint one other Person as Umpire, in the room or stead of the Person so dying, refusing to act, or become incapable of acting in the Execution of the said recited Acts; and so from Time to Time as often as any Person so nominated or appointed an Umpire, should die, or refuse to act, or become incapable of acting in the Execution of the said Acts; and it was further enacted, that no Person should be capable of acting as such Umpire until he should have taken and subscribed the Oath thereby required; and it was by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty further enacted, that in case either of the said Commissioners therein-before named or to be appointed as therein directed, should, before the finishing and completing of the said Division and Inclosure, die, or refuse or neglect to act, or become incapable of acting in the Execution of the said recited Act, then and from Time to Time, in every such Case, the surviving or remaining Commissioner, together with such Umpire so to be named as aforesaid for the Time being,

within

within Twenty-one Days next after such Death, Refusal, Incapacity, or Neglect, by Writing under their or his Hands and Seals, or Hand and Seal, should appoint another Commissioner, not interested in the said Division and Inclosure, in the room of any Commissioner so dying, refusing, neglecting, or becoming incapable of acting; and every such new Commissioner so to be appointed should have such and the like Powers and Authorities for putting the said Act into Execution, as if he had been named and appointed a Commissioner in and by the said recited Act: And whereas the said *Edward Cleaver* and *John Tuke*, the Commissioners appointed by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, proceeded to carry the same into Effect; and they the said Commissioners, having respectively taken and subscribed the said Oath and Affirmation, did in pursuance of the said first-recited Act, by Writing under their Hands, choose, nominate, and appoint *William Downing* of *Studley* in the County of *York*, Gentleman, (not interested in the said Lands and Grounds to be inclosed,) to be Umpire to hear and determine any such Difference or Dispute as might arise between the said Commissioners, touching any Matter or Thing relating to the said Division and Inclosure: And whereas the said Commissioners did, in further Execution of the said Act, set out and order Roads and Drains; and did divide, set out, and allot the Residue and Remainder of the Lands and Grounds in and by the said first recited Act intended to be divided and inclosed, in such Manner as is thereby directed and required: And whereas the said *Edward Cleaver*, afterwards, to wit, on or before the Second Day of *June* One thousand eight hundred and twelve, departed this Life; and the said *William Downing* intended to nominate *Thomas Scott* of *Oulston*, in the said County of *York*, Gentleman, to be a Commissioner in the room of the said *Edward Cleaver*, did within Twenty-one Days after his Death signify such his Intention by Letter, and an Instrument of Nomination was, with the Concurrence and Approbation of the said *John Tuke*, prepared accordingly; but the said *William Downing* also departed this Life before such Instrument was signed and completed: And whereas no Award was made by the Commissioners as directed by the said recited Act; and various other necessary Matters and Things remain to be completed, for carrying the said Division and Inclosure, and the Provisions of the said recited Acts concerning the same, into Effect: And whereas the Purposes of the said recited Act of the Forty-sixth Year of the Reign of His present Majesty cannot be completed or carried into Execution, unless another Commissioner shall be appointed in lieu of the said *Edward Cleaver*, and also another Umpire in lieu of the said *William Downing*; and it is also expedient that the said Act should be amended: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King'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, That the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, and all and every the Clauses, Provisions, Directions, Powers and Authorities therein contained, shall be and continue in full force and effect now and at all Times hereafter; and also such of the Powers and Provisions of the said Act of the Forty-first Year of the Reign of His present Majesty, as have or may have relation thereto, or to this Act; except so far as the same Acts respectively shall be amended, varied, or altered by this Act.

Recited Acts to be in force, except where hereby altered.

II. And be it further enacted, That the said *Thomas Scott* shall be and be is hereby nominated and appointed a Commissioner in the room of the said

Appointment of new Commissioner.

faid *Edward Cleaver*, for executing the Powers and Provisions and effectuating and completing the Purposes of the faid recited Acts, and that in as full and ample Manner to all Intents and Purposes, as the faid *Edward Cleaver* was authorized to act in and by the faid recited Acts, or either of them; and he the faid *Thomas Scott*, together with the faid *John Tuke*, (now of the City of *York*) shall be and they are hereby authorized and empowered to carry this Act and the faid recited Acts into Execution: Provided always, that he the faid *Thomas Scott* shall, before he be capable of acting as a Commissioner as aforesaid, take and subscribe the Oath in and by the faid recited Act of the Forty-first Year of the Reign of His present Majesty, required to be taken and subscribed by Commissioners; and which Oath shall be taken and subscribed within One Calendar Month after the passing of this Act, unless in case of Sickness or other Emergency.

Justice may
administer
the Oath.

III. And be it further enacted, That it shall be lawful for any Justice of the Peace for the North Riding of the County of *York*, to administer to any Commissioner, for the Purposes of this Act, the Oath or Affirmation by the faid recited Act of the Forty-first Year of the Reign of His present Majesty required to be taken by Commissioners.

Umpire to be
appointed.

IV. And, for the Purpose of settling and determining any Difference or Dispute that may arise between the faid Commissioners, or any future Commissioner or Commissioners acting under the Authority or Authorities of the faid recited Act or of this Act, touching or concerning any of the Matters and Things to be by them done and performed in pursuance thereof respectively; be it further enacted, That the faid *John Tuke* and *Thomas Scott* shall and they are hereby required, immediately after the taking and subscribing by him the faid *Thomas Scott* the Oath herein-before in this Behalf directed, by Writing under their Hands, to choose, nominate, and appoint some other proper and skilful Person (not interested in the faid Lands and Grounds) who shall be willing and consent to act as Umpire; and such Umpire is hereby authorized and required to hear and determine any such Difference or Dispute as may arise between the faid Commissioners, touching any Matter or Thing relating to the faid Division and Inclosure; and the Judgment and Determination of such Umpire therein shall be deemed and considered to be the Judgment and Determination of the faid Commissioners, and shall be final and conclusive upon the faid Commissioners, and upon all other Persons concerned in the faid Division and Inclosure, so far as the Acts of the faid Commissioners are by the faid recited Acts and this Act made final and conclusive.

For appoint-
ing new
Umpire in
case of
Vacancy.

V. Provided always, and be it further enacted, That in case the Person so nominated and appointed by the faid Commissioners as Umpire shall die, or refuse to act, or become incapable of acting in the Execution of the faid recited Acts or this Act, then and in every such Case it shall be lawful for the faid Commissioners, and they are hereby required, to nominate and appoint one other Person as Umpire, in the room or stead of the Person so dying, refusing to act, or becoming incapable of acting in the Execution of the faid recited Acts and of this Act; and so from Time to Time as often as any Person so nominated or appointed an Umpire shall die or refuse to act, or become incapable of acting in the Execution of the faid Acts and of this Act; and in case any such Umpire shall neglect to settle and determine any such Difference or Dispute within Thirty Days after the same shall have been referred to him by the faid Commissioners, such Neglect shall be and

be

be deemed and taken to be a Refusal to act, within the Intent and Meaning of this Act.

VI. Provided always, and be it further enacted, That no Person shall be capable of acting in the Execution of this Act as Umpire, until he shall have taken and subscribed the Oath or Affirmation in and by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, directed to be taken and subscribed by Persons for the Purpose of acting as Umpire under the same; and which Oath it shall be lawful for the said Commissioners, or either of them, or for any Justice of the Peace for the said North Riding, to administer. Umpire to take an Oath.

VII. And be it further enacted, That in case either of the said Commissioners herein-before named shall, before the finishing and completing of the said Division and Inclosure, die, or refuse or neglect to act, or become incapable of acting in the Execution of this Act, then and from Time to Time, in every such Case, the surviving or remaining Commissioner, together with such Umpire, to be so named as aforesaid, for the Time being, shall, within Twenty-one Days next after such Death, Refusal, Incapacity, or Neglect shall happen or be known, by Writing under their Hands and Seals, appoint another Person, not interested in the said Division and Inclosure, to be a Commissioner in the room of every Commissioner so dying, refusing, neglecting or becoming incapable of acting; and every such new Commissioner so to be appointed (after taking and subscribing the Oath required by the said recited Act of the Forty-first Year of the Reign of His present Majesty) shall have such and the like Powers and Authorities for carrying this Act and the said recited Acts into Execution, as if he had been named and appointed a Commissioner in or by this Act or the said recited Act of the Forty-sixth Year of the Reign of His present Majesty. On the Death of a Commissioner, the Survivor, with the Umpire, to appoint a new one.

VIII. And be it further enacted, That if from any unforeseen Casualty or Emergency it shall be found impracticable to appoint a new Commissioner or Commissioners, in the Manner or by the Means herein-before provided and directed, then a new Commissioner may and shall be nominated in Manner herein-after mentioned; that is to say, if the said *John Tuke* shall die, or refuse to act, or neglect to attend as aforesaid, it shall be lawful for the said *Charles Duncombe* and *John Whytehead*, or the future Lord or Lords, Lady or Ladies, of the said Manors of *Wombleton* and *Harom*, and *Nawton* respectively, by any Writing under his, her, or their Hand and Seal, or Hands and Seals, to appoint another Person, not interested in the said Inclosure, to be a Commissioner in the room of the said *John Tuke*; and so from Time to Time, as often as any Commissioner so to be appointed by the said *Charles Duncombe* and *John Whytehead*, or the future Lords or Ladies of the said Manors, shall die, or refuse to act, or neglect to attend as aforesaid; and in case the said *Thomas Scott* shall die, or refuse to act, or neglect to attend as aforesaid, it shall and may be lawful for the Majority in Value (to be ascertained by the Rate for the Relief of the Poor within the said Manors) of the Proprietors or Persons interested in the Lands and Grounds directed by the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, to be divided and inclosed, or their Agents, to be appointed by Writing under their respective Hands for such Purpose, (except the said *Charles Duncombe* and *John Whytehead*), who shall be present at a public Meeting to be held for that Purpose, in *Helmstey* aforesaid, in pursuance of a Notice to be given by the Clerk for the Time being Appointment of other Commissioners if eventually requisite.

of the said Commissioners, in the Parish Church of *Helmſley*, or by Writing to be affixed on the moſt public outer Door of the ſaid Church, and alſo in all the Newspapers uſually published in the City of *York*, at leaſt Twenty-one Days before ſuch Meeting, by Writing under their Hands, to appoint one other Perſon, not intereſted in the ſaid Incloſure, to be a Commiſſioner in the room of the ſaid *Thomas Scott*; and ſo from Time to Time, as often as any Commiſſioner to be appointed by the ſaid Proprietors as aforeſaid ſhall die, reſuſe to act or neglect to attend as aforeſaid; and in caſe the ſaid *Charles Duncombe* and *John Whytehead*, and the future Lords or Ladies of the ſaid Manors, or the ſaid Proprietors, or either of them reſpectively, ſhall make Default in appointing any new Commiſſioner, ſo directed to be appointed by him and them as aforeſaid, within Two Calendar Months after the Death of any Commiſſioner, or his Refuſal to act, or Neglect of Attendance, ſhall be known, then the ſurviving Commiſſioner ſhall and he is hereby required, from Time to Time, by Writing under his Hand, within One Calendar Month next after the Expiration of the ſaid Two Calendar Months, allowed to the ſeveral Parties and Perſons for naming ſuch new Commiſſioner, by him or them reſpectively as aforeſaid, to appoint one other Perſon, not intereſted in the ſaid Incloſure, to be a Commiſſioner in the room of every ſuch Commiſſioner ſo dying, reſuſing to act, or neglecting to attend as aforeſaid; and every Commiſſioner ſo to be appointed, after taking and ſubſcribing the Oath or Affirmation preſcribed by the ſaid recited Act of the Forty-ſiſt Year of the Reign of His preſent Maſteſty, ſhall have the like Power and Authority as the Commiſſioner in whoſe Place he ſhall be appointed had or was inveſted with.

Sale of Towns
or Waſte
Lands con-
firmed.

IX. And whereas certain ſmall Parcels of Waſte or Open Lands and Grounds within the Townſhips of *Wombleton* and *Narwton* aforeſaid, called *Towns Lands*, and by other Names, being Parcel of the Lands and Grounds by the ſaid fiſt-recited Act directed to be incloſed, were, by the ſaid *Edward Cleaver* and *John Tuke* as Commiſſioners as aforeſaid, ſold for the Purpoſe of raiſing Money towards defraying the Expences attending the Execution of the ſaid recited Acts, and the greateſt Part of the Monies agreed to be paid by the Purchaſers of the ſaid Lands and Grounds reſpectively were accordingly paid, but ſome Part thereof remains unpaid; be it therefore further enacted, That the ſaid *John Tuke* and *Thomas Scott*, or the Commiſſioners for the Time being, acting in the Execution of the ſaid Acts and of this Act, ſhall (on Proof to them made of Payment of the whole of the ſaid Purchase Monies with lawful Intereſt for the ſame reſpectively, or for ſuch Part of the ſaid Purchase Monies as now remain unpaid, ſuch Intereſt to be computed from the Time of the Purchaſer's Entry to the ſaid purchaſed Lands and Grounds reſpectively) ſet forth in the Award to be made purſuant to the ſaid recited Acts and this Act, the Lands and Grounds ſo ſold, and accordingly allot and award the ſame to the Purchaſers thereof, to be thenceforth held in Severalty by them, their Heirs, Appointees and Aſſigns reſpectively, in Fee Simple.

If Purchase
not com-
pleted, In-
tereſt to be
forfeited.

X. And be it further enacted, That in caſe any Part of the Purchase Monies ſo remaining unpaid, or the Intereſt thereof, ſhall not be fully ſatiſfied and paid to the ſaid *John Tuke* and *Thomas Scott*, or other the Commiſſioners for the Time being, or to One of them, within Three Calendar Months after the paſſing of this Act, after Demand thereof by the ſaid Commiſſioners for the Time being, or One of them, or by their Clerk, Surveyor, or any other Perſon or Perſons by them authorized, the Perſon or Perſons ſo making Default ſhall be wholly excluded from all
Benefit

Benefit whatsoever under his, her, or their said Purchase, unless further Time for such Payment be allowed by the said Commissioners for the Time being, on Special Cause being shewn to them for the Purpose; and in case of such Refusal or final Neglect, the said Commissioners shall and they are hereby required to cause the Lands and Grounds for which such Purchase Monies shall not have been paid, to be again sold either by public Auction or private Contract, to any Person or Persons willing to purchase the same, for the best Price or Prices that can be reasonably obtained, and on Receipt of the Purchase Money payable by such future Purchaser or Purchasers respectively, shall or may award such last-mentioned Lands and Grounds to them accordingly, to be thenceforth held in Severalty by him, her or them, their Heirs, Appointees and Assigns respectively.

XI. And be it further enacted, That it shall be lawful for the said Commissioners for the Time being, and they are hereby authorized to demand and receive, of and from any Person or Persons so failing to complete his, her, or their original Purchase, and of and from his, her, or their Heirs or Assigns, the Possession of such Lands and Grounds, and also the Mesne Profits which shall have arisen therefrom, subsequent to such original Purchaser or Purchaser first Entry thereto; and in Default of such Possession being delivered, and of such Mesne Profits being paid accordingly, within Three Calendar Months after Demand thereof by the said Commissioners for the Time being, or any Person or Persons to be authorized by them in Writing for that Purpose, the same Possession and Mesne Profits shall be recoverable by Ejectment, Action or Plaint, in any of His Majesty's Courts of Law or Equity at *Westminster*, in the Name or Names or on the Demise of the Commissioners for the Time being, either or any of them; to which Action the Person or Persons making such Default respectively shall plead the General Issue, and give the Special Matter in Evidence.

Purchase Money may be recovered.

XII. And be it further enacted, That the Receipts of the said *John Tuke* and *Thomas Scott*, or such Commissioners for the Time being as aforesaid, for any Purchase, Interest, or other Monies coming to their Hands, by virtue of this Act, shall be effectual Discharges to the Purchasers or Persons paying the same respectively, without such Purchasers or Persons being obliged to see to the Application, or being answerable for the Misapplication thereof respectively.

Commissioners Receipts to be a sufficient Discharge.

XIII. And be it further enacted, That as well the Monies received or recovered for such Mesne Profits, and also the Monies which shall have been paid or deposited upon or after the original Purchase, and also the Monies to be paid by such future Purchasers respectively as aforesaid, shall be applied towards defraying the Expences of obtaining and passing the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, and this Act, and of carrying the said recited Acts and this Act into Execution; and in case any Surplus shall remain of any such Money, after Payment of such Costs, Charges and Expences, such Surplus shall be apportioned, divided and paid amongst and unto the several Persons and Parties entitled thereto, in case they shall be seized in Fee Simple of their respective Estates, in right whereof they shall be so entitled, or otherwise such Surplus Money shall be applied and disposed, in Manner directed by the said recited Act, in Cases where Money to be paid for the Purchase or Exchange of Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, is thereby directed to be paid into the Bank of *England*, and to be laid out in the Purchase of other Lands, Tene-

Application of Monies.

ments or Hereditaments, to be settled to the same Uses; and that the Expences of obtaining and carrying into Effect this present Act, shall be defrayed by the same Persons, and in like Manner as the Expences of the said first recited Act are therein directed to be defrayed.

Persons ag-
grieved may
appeal to the
Quarter Ses-
sions.

XIV. Provided always, and be it further enacted, That if any Person shall think himself or herself aggrieved by any Thing done or omitted to be done in pursuance of this Act, such Person may appeal to the Justices of the Peace at the next General Quarter Sessions of the Peace to be holden for the North Riding of the County of *York*, such Appellant (if there be sufficient Time after the Cause of such Complaint shall have arisen) first giving or causing to be given Fourteen Days Notice at the least in Writing, of his or her Intention of bringing such Appeal, and of the Matter thereof, to the Person or Persons by or through whose Act or Proceeding such Cause of Complaint shall arise, and within Four Days next after such Notice entering into Recognizance before some Justice of the Peace for the North Riding of the said County, with Two sufficient Sureties conditioned to try such Appeal, and abide the Order thereon, and to pay such Costs as shall be awarded by the Justices at such Quarter Sessions; and for want of sufficient Time for giving such Notice, previous to the First Quarter Sessions after the Cause of such Complaint shall have happened, then such Appeal, after such Notice and under such Recognizance, may be made at the Second General Quarter Sessions of the Peace, to be holden for the North Riding of the County of *York*; and the Justices of such First or Second Sessions, upon due Proof of such Notice having been given as aforesaid, and of the entering into such Recognizance, shall hear and finally determine the Cause and Matter of such Appeal in a summary Way, and award such Costs to the Parties appealing or appealed against, as they the said Justices shall think proper, and the Determination of such Quarter Sessions shall be final, binding and conclusive, to all Intents and Purposes whatsoever; and the said Justices at such Sessions, may also by their Order or Warrant, levy such Costs so awarded, by Distress and Sale of the Goods and Chattels of the Person or Persons who shall refuse or neglect to pay the same; and for want of sufficient Distress commit such Person or Persons to any Common Gaol or House of Correction for the North Riding of the County of *York*, there to remain for any Time not exceeding One Calendar Month, or until Payment of such Costs.

Both Acts to
be printed by
the King's
Printers.

XV. And be it further enacted, That this Act, and also the said recited Act of the Forty-sixth Year of the Reign of His present Majesty, shall respectively be printed by the several Printers to the King's most Excellent Majesty, duly authorized to print the Statutes of the United Kingdom; and a Copy thereof respectively so printed by any of them, shall be admitted as Evidence thereof, by all Judges, Justices, and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1814.