ANNO QUADRAGESIMO SEPTIMO

GEORGII III. REGIS.

Cap. 40.

An Act for enabling certain Persons therein named to carry into Execution a Partition lately made under a Decree of His Majesty's High Court of Chancery, of *The Moyser Estate*, in the County of *York*, and theCounty of the City of *York*, on the Part of the Reverend *Richard Gee*, *Robert Whyte* Esquire, and *Thomas Metcalfe* Esquire. [25th *April* 1807.]

The Will of Sarah Moyser, 29th July 1793.

WHEREAS *Sarah Moyser*, late of *Harley Street*, in the Parish of *Saint Mary-le-bone* in the County of *Middlesex*, Spinster, deceased, being seised of one undivided Third Part or Share of an Estate in *Yorkshire*, and in the County of the City of *York*, called *The Moyser Estate*, duly signed and published her last Will and Testament in Writing, bearing Date the Twenty-ninth Day of *July* One thousand seven hundred and ninety-three, and did thereby give and devise the same by the general Description of all and singular her Manors and Freehold Messuages, Farms, Lands, Tenements, and all and every her Parts and Shares of and in all and singular the Manors, Messuages, Farms, Lands, Tenements, Hereditaments, and Real Estates whatsoever, whereof she was seised in Fee Simple, or wherein she had or was entitled to any Estate of Inheritance;

ſituate in the ſeveral Towns, Pariſhes, Fields, Precincts, or Territories of *Kellythwaite*, *Kellythorpe*, *Sunderland*, *Wicke*, *Emſwell*, *Naſſerton*, *Great Driffield*, *Little Driffield*, *Cockham*, *Thelke*, *Lowthorpe*, *Beverley*, *Ayke*, *Southolm*, and *Lockington*, and every or any of them, in the ſaid County of *York*, and in *Appleton*, *Robuck*, and *Bolton Piercy*, in the County of the City of *York*, or either of them, or elſewhere in that Part of *Great Britain* called *England*, with their and every of their Rights, Members, and Appurtenances; and alſo all that her undivided Third Part or Share of and in the Rectory or Parſonage and Manſion-place of *Stillingfleet* in the ſaid County of *York*, and of all Glebe Land, Tythes, Portions of Tythes, and other Rights and Hereditaments to the ſaid Rectory belonging; and alſo of and in all and ſingular other the Meſſuages, Lands, Tenements, and Hereditaments whatſoever, with their Appurtenances, in *Stillingfleet* or elſewhere in the ſaid County of *York*, which had been granted and demiſed, and were held by virtue of Two ſeveral Leaſes for Lives, under the Archbiſhop of *York*, and the Dean and Chapter of the Cathedral Church of *Saint Peter* at *York* (ſubject to the Rents, Covenants, and Agreements under which the ſame are reſpectively held) unto *Frances Cotton* of *Harley Street*, Spinſter (ſince deceaſed), and her Aſſigns for her Life; and after her Deceaſe unto *Richard Gee* of *Hotham* in the County of *York*, Clerk, and his Aſſigns for his Life; and after the Deceaſe of the Survivor of them, the ſaid *Frances Cotton* and *Richard Gee*, unto *William Whyte* Second Son of *James Whyte*, then late of *Denbighs* in the County of *Surrey*, Eſquire, ſince deceaſed, his Heirs and Aſſigns for ever, in caſe he ſhould be then living, and ſhould then have attained or ſhould afterwards attain the Age of Twenty-one Years, and ſubject to the Condition of taking the Name, and bearing the Arms of *Moyſer*, therein-after contained; but in caſe the ſaid *William Whyte* ſhould happen to die before he ſhould attain the Age of Twenty-one Years, or ſhould attain that Age and happen to die in the Lifetime of the ſaid *Frances Cotton* and *Richard Gee*, or in the Lifetime of the Survivor of them, then and in either of ſuch Caſes the ſaid Teſtatrix gave and deviſed all her ſaid Freehold and Leaſehold Eſtates whatſoever, with their Appurtenances, unto *Robert Whyte*, the Brother of the ſaid *William Whyte*, his Heirs and Aſſigns, for ever, in caſe he ſhould be then living, and ſhould have then attained or ſhould afterwards attain the Age of Twenty-one Years, and ſubject to the Proviſo or Condition for taking the Name, and bearing the Arms of *Moyſer* therein-after contained; but in caſe the ſaid *Robert Whyte* ſhould happen to die under the Age of Twenty one Years, or ſhould attain that Age, and ſhould happen to die in the Lifetime of the ſaid *Frances Cotton* and *Richard Gee*, or in the Lifetime of the Survivor of them, then and in any of ſuch Caſes ſhe the ſaid Teſtatrix gave and deviſed all her ſaid Freehold and Leaſehold Eſtates whatſoever, to the Uſe of her Godſon *Thomas Metcalfe*, the Third Son of the Reverend *George Metcalfe*, of *Stanner* in the County of *Suſſex*, by Miſtake in the ſaid Will called *Thomas Metcalfe*, and the Heirs of his Body, and for Default of ſuch Iſſue, to the Uſe of the Second and other Son and Sons of the Body of the ſaid *George Metcalfe* (except the eldeſt Son for the Time being) ſeverally and ſucceſſively according to their reſpective Seniorities in Tail; and for Default of ſuch Iſſue, to the Uſe of the firſt and other Daughter and Daughters of the ſaid *George Metcalfe*, ſeverally and ſucceſſively, according to their reſpective Seniorities in Tail; and in Default of ſuch Iſſue, to the Uſe of the ſaid *Richard Gee*, his Heirs and

Aſſigns

Aſſigns, for ever: And whereas the ſaid *George Metcalfe* has, beſides the ſaid *Thomas Metcalfe*, an eldeſt Son and Two younger Children only, named *Margaret Metcalfe* who is of the Age of Twelve Years or thereabouts, and *Frederick Metcalfe* who is of the Age of Ten Years or thereabouts: And whereas the ſaid *Sarah Moyſer* departed this Life in the Year One thouſand ſeven hundred and ninety-ſix, without revoking or altering her ſaid Will; and the ſaid *Frances Cotton* and *William Whyte* are both ſince dead: And whereas by a Decree or decretal Order of His Majeſty's High Court of Chancery, bearing Date the Sixth Day of *Auguſt* One thouſand eight hundred and three, and made in a Cauſe wherein *Charles William Michell* Eſquire, and *Dorothy* his Wife, and *James Whyte* Eſquire, were Plaintiffs, and the ſaid *Richard Gee*, *Robert Whyte*, and *Thomas Metcalfe* were Defendants; after reciting (amongſt other Things) the Pleadings in the ſaid Cauſe, by which it was alledged, that the Enjoyment of the ſaid Eſtate, called *The Moyſer Eſtate*, in common, was attended with great Inconvenience, and that the Plaintiffs were deſirous of having a Partition made thereof; it was ordered and decreed, that a Commiſſion of Partition ſhould iſſue, directed to certain Commiſſioners to be therein named, to divide the Eſtates in queſtion into Thirds; and it was ordered, that Two-thirds thereof ſhould be allotted to the Share of the Plaintiffs, and the other Third thereof as the Share of the Defendants; and it was ordered, that the Plaintiffs and Defendants ſhould hold and enjoy their reſpective Shares in Severalty, according to ſuch Allotments, and execute mutual Conveyances to each other of their reſpective Shares, according to their reſpective Intereſts therein: And whereas a Commiſſion having been iſſued on the Twenty-ninth Day of *Auguſt* One thouſand eight hundred and three, in Obedience to the ſaid Decree, directed to *Samuel Turner*, *William James*, *John Hall*, and *John Smith*, authorizing them, or any Two or Three of them, to divide the ſaid *Moyſer Eſtate* into Thirds, in the Manner directed by the ſaid Decree, the ſaid *Samuel Turner* and *William James*, Two of the ſaid Commiſſioners, by their Return, bearing Date the Twenty-ſixth Day of *November* One thouſand eight hundred and three, did certify, that they had met together, entered into and upon, and viewed and ſurveyed the Premiſes, and had diſtinguiſhed and ſet out the ſame, by the beſt Ways and Means, purſuant to the true Intent and Meaning of the ſaid Decree and decretal Order; and did further certify, that they had allotted to the Plaintiffs Two-third Parts of the ſaid Eſtates, conſiſting of the Particulars therein-after mentioned, and had allotted to the ſaid Defendants the other Third Part of the ſaid Eſtate, conſiſting of the Particulars alſo therein-after mentioned. And whereas the Schedule to this preſent Act, intituled, *The Firſt Schedule*, contains a Particular of the Eſtates which upon the ſaid Partition were allotted to the ſaid *Charles William Michell*, and *Dorothy* his Wife, and *James Whyte*; and the Schedule to this preſent Act, entitled, *The Second Schedule*, contains a Particular of the Eſtates which, upon the ſaid Partition, were allotted to the ſaid *Richard Gee*, *Robert Whyte*, and *Thomas Metcalfe*: And whereas by an Order of the ſaid High Court of Chancery, bearing Date the Twenty-third Day of *March* One thouſand eight hundred and four, the Return of the ſaid Commiſſioners was abſolutely confirmed: And whereas the ſaid *Thomas Metcalfe* attained the Age of Twenty-one Years on the Eighth Day of *January* One thouſand eight hundred and ſeven; and in caſe he ſhould ſurvive the ſaid *Richard Gee*, and the ſaid *Robert Whyte* ſhould die in the Lifetime of the ſaid *Richard Gee*, will become the Firſt Tenant in Tail, under

under the Will of the said *Sarah Moyser*, of the Third Part or Share thereby devised of the said *Moyser* Estate: And whereas by reason of the Devises and Limitations contained in the said Will of the said *Sarah Moyser*, the said Partition, so far as respects the said Third Part or Share, or other Parts or Shares (if any) comprized in and devised by the said Will of the said *Sarah Moyser*, of and in the said *Moyser* Estate, cannot be effected without the Aid and Authority of Parliament; Wherefore Your Majesty's most dutiful and loyal Subjects, the said *Richard Gee* and *Robert Whyte*, and *Thomas Metcalfe*, do most humbly beseech 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 immediately from and after the passing of this Act, *John Forster* of *Lincoln's Inn* in the County of *Middlesex*, Gentleman, and *Thomas Metcalfe* of *Lincoln's Inn* aforesaid, Gentleman, and and the Survivor of them, and the Executors and Administrators of such Survivor, shall be and they the said *John Forster* and *Thomas Met alfe* and the Survivor of them, and the Executors and Administrators of such Survivor, are hereby appointed Trustees for carrying the said Partition or Division into Execution, so far as relates to the said undivided Third Part or Share, or other Parts or Shares (if any) devised by the said Will of the said *Sarah Moyser*, of and in the said Estate called *The Moyser Estate*, and intended to be comprized in the Schedules to this Act, and the Estates, Rights, and Interests of the Persons seised of, entitled to, or interested in the same.

Confirmation of the Partition.

Trustees appointed for carrying the Partition into Execution.

One-third of the Hereditaments to be conveyed.

II. And be it further enacted and declared, That it shall and may be lawful to and for the said *John Forster* and *Thomas Metcalfe* and the Survivor of them, and the Executors and Administrators of such Survivor, and they and he are and is hereby authorized and required by any Deed or Deeds, or Instrument or Instruments, in Writing, sealed and delivered by them or him in the Presence of, and attested by Two or more credible Witnesses, but under the Direction of the said Court of Chancery, to bargain, sell, and convey the One undivided Third Part or Share, and all other the Parts or Shares, Rights, and Interests (if any) devised by the said Will of the said *Sarah Moyser*, of and in the Hereditaments comprized in the First Schedule to this Act, and of and in their respective Rights, Members, and Appurtenances, to such Uses, upon and for such Trusts, Intents, and Purposes, and with, under, and subject to such Powers, Provisoes, and Declarations, as shall be thought necessary or expedient for effectuating and completing the said Partition or Division.

To such Uses as shall be thought necessary for completing the Partition.

After the Execution of the Conveyances, the respective Persons to hold the Premises discharged of all Trusts, &c. which, previous to the Act, the One third Share devised

III. And be it further enacted, That immediately from and after the Execution of such Deed or Deeds, Instrument or Instruments, in Writing, by the said *John Forster* and *Thomas Metcalfe* or the Survivor of them, or the Executors or Administrators of such Survivor, as hereinbefore is mentioned, all and every the Persons and Person to or to the Use of whom any Bargain, Sale, or Conveyance shall be made by virtue of this present Act, shall for ever thenceforth hold, possess, and enjoy the Hereditaments to be thereby bargained, sold, and conveyed, and every Part of the same, with their respective Appurtenances, to and for his, her, and their own Use and Benefit, absolutely freed, exonerated, and discharged of and from the Devises, Bequests, Uses, Trusts, Powers, Provisoes,

visoes, Conditions, and Limitations, to which, previously to the passing of this present Act, the One undivided Third Part or Share, or other Parts or Shares (if any) comprized in the said Will of the said *Sarah Moyser*, of and in such last-mentioned Hereditaments, was or were subject or liable under or by virtue of the same Will. by Sarah Moyser's Will, stood subject.

IV. And be it further enacted, That it shall be lawful for the said Court of Chancery to make such Orders, and give such Directions for carrying the Purposes of this Act into Execution, either upon the Petition of the Parties to the said Cause, or any of them, or otherwise as the said Court shall think proper and expedient.

V. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Persons and Person, and to all Bodies Politick and Corporate, and to their respective Heirs, Successors, Executors, Administrators, and Assigns (other than and except the said *Richard Gee* and *Robert Whyte*, and their respective Heirs and Assigns, and the said *Thomas Metcalfe* the Son, and the Heirs of his Body, and the other Sons (except the eldest Son for the Time being) and the Daughters of the Body of the said *George Metcalfe*, and the Heirs of the respective Bodies of all and every such Sons and Daughters, and all and every other the Persons and Person claiming or to claim any Estate, Right, Title, Interest, Claim, or Demand, of, in, to, or out of the Hereditaments comprized in the First Schedule to this Act, or any undivided or other Part or Share of or in the same, or any of them, under or by virtue of the said Will of the said *Sarah Moyser* deceased) all such Estates, Rights, and Interests, as they, every, or any of them had before the passing of this Act, or could or ought to have had or enjoyed, or claimed, in case this Act had not been made. General Saving Clause.

VI. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and a Copy thereof, so printed, shall be admitted as Evidence thereof by all Judges, Justices, and others. Copy of the Act printed by the King's Printer, Evidence.

The First SCHEDULE referred to by the above Act.

PREMISES.	TENANTS' NAMES.	WHERE SITUATE.	Clear Value.
All those several Messuages, Tenements, Farm Houses, Cottages, and also the Water Corn Mill, with the Barns, Stables, Outbuildings, and Premises, thereunto belonging; and also all those Closes, Pieces, or Parcels of Arable, Meadow, and Pasture Land or Ground usually held or occupied therewith, and containing, by Admeasurement, 1,068 Acres and 13 Perches, and now or late in the several Tenures of	John and Peter Severs, Samuel Ellyard, Richard Layburn, John Luckup, William Jefferson, John Webster, John Newlove, Ralph Horner, Richard Pinder, William Luckup, Francis Marson, William Walker, Widow Sharpe, or their under Tenants.	Nafferton and Lowthorpe, in the East Riding of the County of York.	
And also certain Fee Farm Rents, amounting to the Sum of £.41. 0s. 9¼d. out of and payable from certain Estates, situate at Nafferton and Lowthorpe, and appurtenant thereto, subject nevertheless to the Payment of the Sum of £. 111. 13s. 10½d. for the Tythe Rent, Fee Farm Rent, Fœdery Rent, and Mill Fee Rent; and also to the Payment of the Principal Sum of £.1324 0s, 11d. and Interest to accrue thereon, being a Mortgage made of the said Estate and Premises under the Beverley and Barmston Drainage Act, and also to all future Impositions and Assessments occasioned thereby, - - -	at 28 Years Purchase after deducting Incumbrances	- - - -	22,955 10 10
And also all that Messuage, or Farm House, with the Stable Yard, Buildings, and Premises; and also all those several Closes, Pieces, or Parcels of Arable, Meadow, and Pasture Land or Ground, containing 73 A. 3 R. 31 P. little more or less.	Willson, Widow, and her Son, or one of them.	Lockington, in the said East Riding.	
And also one Right of Common in the Common of Wilfholme, near thereto; and also all that annual Payment, or Sum of £.22. 10s. being a Tythe Rent arising, issuing, and payable out of certain Lands and Premises, situate at Lockington aforesaid, subject, nevertheless, to the Payment of the Principal Sum of £ 463, and the Interest to accrue due thereon, secured by a Mortgage of the said Premises,	at 28 Years Purchase after deducting Incumbrances	- - - - -	2,081 5 3
And also all those several Messuages, Tenements, and Farm Houses, with the Barns, Stables, Buildings, Yards, Gardens, Orchards, and Premises; and also all those Closes or Inclosures of Arable, Meadow, and Pasture Land or Ground, containing by Admeasurement, 420A. 3R. 18P,	Robert Muzeen, John Muzeen, Benjamin Russell, or their Under Tenants.	Soutelhme, otherwise Southolme, in the North Riding of the County of York.	
	at 28 Years Purchase -	- - - - -	11,890 18 0

The First SCHEDULE, &c.—*continued.*

PREMISES.	TENANTS' NAMES.	WHERE SITUATE.	Clear Value.
And alſo all thoſe Meſſuages or Tenements, Farm Houſes and Cottages, with the Barns, Stables, Outbuildings, Yards, Gardens, and Premiſes, and all thoſe ſeveral Cloſes, Pieces, or Parcels of Arable, Meadow, and Paſture Land or Ground, or Land lying in the Open Fields or Meadows there, containing, by Eſtimation, 382 A. 1 R. 9 P. little more or leſs, - - -	William Laycock, William Temperton, Joſeph Pick, Robert Bell, Thomas Laycock, ſome or one of them, their or ſome or one of their Under Tenant or Under Tenants.	Appleton, otherwiſe Nun Appleton, in the Pariſh of Bolton Piercy, in the Ainſtey or County of the City of York	
Subject to the Payment of One Pound per Annum to the Poor of Bolton Piercy, and alſo of the Principal Sum of £.315. and Intereſt to accrue due thereon, being a Mortgage charged upon the ſaid Eſtate, by virtue of the Act of Parliament for the Incloſure thereof.	at 28 Years Purchaſe after deducting Incumbrances	- - - - -	10,787 0 0
AND alſo all that Rectory, Parſonage, or Manſion Houſe of Stillingfleet, in the ſaid County of York, and the Glebe Lands, Tythes, and other Hereditaments to the ſame belonging, held for the Life of Mr. Samuel Pool, aged upwards of Sixty Years, by virtue of Two ſeveral Leaſes for Lives, under the Archbiſhop of York, and the Dean and Chapter of the Cathedral Church of Saint Peter at York, and now let to Cave, Sir Thomas Pilkington, and Sir William Milner, or ſome of them; ſubject to the Rents, Covenants, Proviſoes, and Agreements, contained in the ſaid Indentures of Leaſe.			
At Seven Years Purchaſe on clear Rent - - - - -			857 18 0
Alſo all that Meſſuage, or Tenement and Farm, with the Outbuildings, Barns, Yards, Gardens, and Premiſes to the ſame belonging; and alſo all thoſe ſeveral Cloſes, Pieces, or Parcels of Arable, Meadow, and Paſture Land or Ground; and the Herbage or Eatage of Part of a certain Cloſe, called the Great Ing; all which ſaid Premiſes contain, by Eſtimation, 120 A. 3 R. 37 P. be the ſame more or leſs. and are held under a certain Indenture of Leaſe, bearing Date the 13th Day of Auguſt 1796, granted by his Grace the Archbiſhop of York, for the Lives of John Hall, Dorothy Michel, and James Whyte, and the Survivor of them, ſubject to the Rents, Covenants, Proviſoes, and Agreements in ſuch Indenture of Leaſe contained, -	Jonathan Darley.	Tholthorpe, or Lower Tholthorpe, in the North Riding of the ſaid County of York.	
	at 14 Years Purchaſe on clear Rent - -	- - - - -	1,171 13 8
		Clear Value £	49,744 5 8

Together with all the Rights, Royalties, Members, and Appurtenances, to the ſaid reſpective Eſtates and Premiſes herein-before particularly deſcribed, belonging or in anywiſe appertaining.

The Second SCHEDULE referred to by the above Act.

PREMISES.	TENANTS' NAMES.	WHERE SITUATE	Clear Value.
All that capital Meſſuage or Farm Houſe, with the Barns, Stables, Yards, Stalls, Hovels, Outbuildings, and Premiſes, together with 1,100 A. 3 R. 15 P. of Arable, Meadow, Paſture, and Warren Land or Ground, divided into Incloſures, and called Driffield Greets.	Francis Brown, his Under Tenants or Aſſigns.	Great Driffield, Little Driffield, Sunderland, and Kellethwaite, or ſome or one of them, in the Eaſt Riding of the County of York.	
And alſo all that Meſſuage or Farm Houſe, with the Barn, Stables, Outbuildings, and Premiſes, and all thoſe ſeveral Cloſes, Pieces, or Parcels of Arable, Meadow, and Paſture Land, or Ground, containing 110 A. 1 R. 27 P be the ſame more or leſs, - - -	Nicholas Milner, his Under Tenants or Aſſigns. at 28 Years Purchaſe after deducting Incumbrances	Emſwell and Little Driffield in the ſaid Eaſt Riding of the County of York. - - - - -	21,863 19 4
And alſo all that Meſſuage or Farm Houſe, Buildings, Yards, and Premiſes, together with the ſeveral Cloſes, Pieces, or Parcels of Arable, Meadow, and Paſture Land or Ground, and Land lying in the open Meadows there, containing by Eſtimation, 134 A. 3 R. 5 P. be the ſame little more or leſs.	George Harriſon.	Aike, otherwiſe Aike, in the Eaſt Riding of the County of York.	
Together with two Rights of Common in the Common of Wilfholme near thereto, ſubject to all future Impoſitions Taxes, and Aſſeſſments, ariſing by or from the Beverley and Barmſton Drainage, together with all the Rights, Royalties, Members, and Appurtenances to the ſaid deſcribed Eſtates and Premiſes belonging or in anywiſe appertaining, - - - - -	at 28 Years Purchaſe -	- - - - -	3,012 18 0
		£	24,875 17 4

There is no Timber on the Eſtate other than what appeared neceſſary for the immediate Repairs thereof; and the Sum of £4 3 6, beyond the Equality in the Exchange, was allowed by the Commiſſioners for the Reparation of the paled Fencing round the Warren at Driffield Greets.

W. JAMES.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1807.