ANNO QUARTO & QUINTO

VICTORIÆ REGINÆ.

****

Cap. liv.

An Act to enable the *Monkland* Canal Company to raise a further Sum of Money.

[21st *June* 1841.]

WHEREAS an Act was passed in the Tenth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for making and maintaining a navi-* 10 G. 3.
gable Cut or Canal, and Waggon Way, from the Collieries in the c. 105.
Parishes of Old *and* New Monkland *to the City of* Glasgow, whereby certain Persons were incorporated by the Name and Style of "The Company of Proprietors of the *Monkland* Navigation," with Power to make the said Canal, Waggon Way, and other Works, in manner therein set forth, and to raise and contribute among themselves the Sum of Ten thousand Pounds, and also a further Sum not exceeding Five thousand Pounds, if the said first-mentioned Sum should be found to be insufficient for the Purposes of the said Act: And whereas another Act was passed in the Thirtieth Year of the Reign of His said late Majesty King *George* the Third, intituled *An Act for* 30 G. 3. c. 73.
forming a Junction between the Forth *and* Clyde *Navigation and the* Monkland *Navigation; and for altering, enlarging, and explaining several former Acts passed for making and maintaining the said Navigations,* whereby the said Company were empowered to contribute among themselves or to borrow a further Sum of Money not exceeding the Sum of Ten thousand Pounds: And whereas another Act was passed in the Fifty-third Year of the Reign of His said

53 G. 3. c. 75. Majesty King *George* the Third, intituled *An Act for amending an Act of the Tenth Year of His present Majesty, for making and maintaining a navigable Cut or Canal, and Waggon Way, from the Collieries in the Parishes of* Old *and* New Monkland *to the City of* Glasgow: And whereas the said Company have long ago formed the said Canal in virtue of the Powers contained in the Two first-recited Acts, and have opened the same to the Use of the Public, and have expended thereon a Sum greatly exceeding the Sums authorized to be raised and expended by the said recited Acts, and have thereby contracted Debt to a considerable Amount: And whereas it is expedient that the said Company should be enabled to raise a further Sum of Money, as well to enable them to discharge the said Debts as for the future Improvement and Maintenance of the said Canal and other Works, as authorized by the said recited Acts; but as these Ends cannot be accomplished without the Aid and Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said first and last recited Acts, and the said second recited Act, in as far as the same relates to the said *Monkland* Navigation, and all the Powers, Provisions, Matters, and Things whatsoever therein contained, excepting in so far as hereby altered, enlarged, or repealed, shall extend to this Act, and shall continue in full Force and have full Effect and Operation in the same Manner as if the same were repeated and re-enacted in the Body of this Act.

Former Acts (except, &c.) to continue in force.

Nothing in this Act to prejudice existing Securities.

II. And be it enacted, That nothing in this Act contained shall diminish or prejudice any Security or Securities granted by the said Company in favour of any Persons or Bodies whatsoever prior to the passing of this Act, and that all such Securities shall remain as valid and ample, in favour of the Parties to whom they are granted, as if this Act had not been passed.

Power to borrow.

III. And be it enacted, That it shall be lawful for the said Company to borrow on Mortgage such Sums of Money as shall from Time to Time be authorized to be borrowed by an Order of a General Meeting of the Company, not exceeding in the whole the Sum of Fifty thousand Pounds (over and above the Sums authorized to be borrowed by the said recited Acts), and, for securing the Repayment of the Money so borrowed, with Interest, to mortgage, assign, and convey the said Canal or Navigation, and the Rates, Tolls, and Duties thereof.

Re-borrowing.

IV. And be it enacted, That if, after having borrowed any Part of the Money so authorized to be borrowed on Mortgage, the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time; but such Power of re-borrowing shall not be exercised without the Authority of a General Meeting of the Company, unless the Money be so re-borrowed in order to pay off any existing Mortgage.

Mortgages.

V. And be it enacted, That every Mortgage for securing Money borrowed by the Company in virtue of this Act shall be by Deed under

under the Common Seal of the Company, duly stamped, and wherein the Consideration shall be duly stated, and every such Mortgage may be according to the Form in the Schedule (A.) to this Act annexed, or to the like Effect.

Rights of Mortgagees.

VI. And be it enacted, That the respective Mortgagees under this Act shall be entitled one with another to their respective Proportions of the Tolls, Sums, and Premises comprised in such Mortgage, according to the respective Sums in such Mortgages mentioned to be advanced by such Mortgagees respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of Priority of the Date of any such Mortgage, or of the Meeting at which the same was authorized, or on any other Account whatsoever.

Register of Mortgages.

VII. And be it enacted, That a Register of Mortgages shall be kept by the Clerk of the said Company, and within Fourteen Days after the Date of any such Mortgage an Entry or Memorial, specifying the Number and Date of such Mortgage, and the Names of the Parties thereto, with their proper Additions, shall be made in such Register, and such Register may be perused at all reasonable Times by any of the Shareholders, or by any Mortgagee of the Undertaking, or by any Person interested in any such Mortgage, without Fee or Reward.

Transfer of Mortgages.

VIII. And be it enacted, That from Time to Time any Party entitled to any such Mortgage may transfer his Right and Interest therein to any other Person by Writing duly stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (B.) to this Act annexed, or to the like Effect.

Entry of Transfers.

IX. And be it enacted, That within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Clerk to the said Company, and thereupon the Clerk shall cause an Entry or Memorial thereof to be made in the same Manner as in the said Case of the original Mortgage; and after such Entry every such Transfer shall entitle the Transferee, his Executors, Administrators, or Assignees, to the full Benefit of the original Mortgage in all respects; and no Party, having made such Transfer, shall have Power to make void, release, or discharge the Mortgage so transferred, or any Money thereby secured; and for such Entry the Company may demand a Sum not exceeding the Amount of Two Shillings and Sixpence.

Payment of Interest on Loans.

X. And be it enacted, That the Interest of the Money borrowed upon any such Mortgage shall be payable and paid half-yearly to the several Parties entitled thereto and in preference to any Dividend payable to the Shareholders of the Company.

Transfers of Interest to be stamped.

XI. And be it enacted, That the Interest on any such Mortgage shall not be transferrable, except by an Instrument duly stamped.

XII. And

Clerk authorized to sign Mortgages.

XII. And be it enacted, That it shall be lawful to the Clerk of the said Company for the Time being, under the Authority of the Committee of Management as after mentioned, to grant, sign, and execute, under the Common Seal of the said Company, all such Mortgages to be granted by the said Company in virtue of this Act, and to deliver the same to the Lenders of the Money so to be borrowed, and which Mortgages shall be equally valid to the Receivers and equally binding upon the said Navigation Rates, Tolls, and Duties thereof, and the Funds, Stock, and Effects of the said Company, as if the same had been signed and sealed by the whole Company of Proprietors.

Clerk not to execute any Assignation without Consent of Committee; and neither to be personally responsible.

XIII. And be it enacted, That it shall not be lawful for the Clerk of the said Navigation to execute and deliver any such Assignation or Conveyance without the written Authority of Three of the Committee of Management of the said Navigation for the Time previously had thereto; and no personal Responsibility shall in any Event attach to the Individuals forming such Committee of Management, or to the Clerk to the Navigation, on that Account.

Borrowing authorized by second recited Act to be regulated by the Provisions of this Act.

XIV. And be it enacted, That the said Company in borrowing the said Sum of Ten thousand Pounds authorized to be borrowed by the said second recited Act, or in renewing the Securities for the same or any Part thereof, shall be regulated by the Provisions of this Act in regard to borrowing the additional Sum of Fifty thousand Pounds hereby authorized to be borrowed; and the Assignations and Conveyances of the said Navigation, and Tolls, Rates, and Duties thereof, in Security, to the Lenders of the Money, shall be framed in conformity with the Provisions of this Act.

Application of the Monies to be borrowed.

XV. And be it enacted, That the whole Monies hereby authorized to be borrowed, or such Parts thereof as shall be so borrowed, shall be laid out in the Payment of the Debts contracted by the said Company as aforesaid, and the Sums expended by them in the Formation of Works for the Improvement of the said Navigation, and the Accommodation of the Traders and the Public, and for the future Improvement and Maintenance of the said Canal and other Works as authorized by the said recited Acts, and to and for the other general Purposes of the said Acts and this Act.

Clerk empowered to receive and record redeemable Transfers of Stock.

XVI. And whereas by the before-recited Act of the Tenth Year of the Reign of His Majesty King *George* the Third the Clerk of the said Navigation is required to make an Entry in the Books of the Navigation to be kept by him for that Purpose of the Transfers of Shares of Stock in the said Navigation, and until such Entry is made it is enacted that the Purchaser of Shares shall have no Part or Share of the Profits of the said Navigation, nor Interest therein, nor any Vote as Proprietor: And whereas the said Provision has reference solely to absolute Transfers of Shares of Stock, or to Transfers *ex facie* absolute; and it may be convenient and advantageous if the Proprietors were empowered to grant Assignations or Conveyances of their Stock, or any Part thereof, in Security of Money to be borrowed thereon: Be it therefore enacted, That after the passing of this Act it shall be lawful for every Proprietor of Stock in the said *Monk-*

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land Navigation to assign the same or any Part thereof to any Person, in Security of Money to be borrowed by such Proprietor, by redeemable Conveyances, framed agreeably to the Form herein set forth in regard to Assignations and Conveyances in Security for Money borrowed; and the Clerk of the Navigation is hereby required to receive such redeemable Assignations or Conveyances, or any back Bond qualifying absolute Transfers of Stock, and record the same, on Payment of the usual Fees, in a Book to be kept by him for that Purpose, and he shall indorse on the Back of such Conveyances the Date of the recording thereof, and such separate back Bonds, when so recorded in such Book, and indorsed as aforesaid by the Clerk, shall be held to qualify the absolute Transfers of Stock, in like Manner as if such back Bonds had formed a Part of the same; and the Clerk is authorized and required to issue Extracts from the said Books of such Assignations and Conveyances and back Bonds, when required, which shall be held probative in all Courts of Law and Equity; but declaring that the Creditors or Assignees in such redeemable Assignations or Conveyances shall hold the same merely as a Security for Money, and shall have no Interest or Vote in the said Navigation, or in any Matter connected therewith, which Rights shall remain entire in the Person of the Granter of the redeemable Assignations or Conveyances, in like Manner as if the same had never been executed.

Present Shares of Company's Stock to be subdivided.

XVII. And whereas the Stock of the said Company of Proprietors of the *Monkland* Navigation was originally divided into One hundred and one Shares, and by the before-recited Act of the Fifty-third Year of the Reign of His said Majesty King *George* the Third each of these Shares was subdivided into Twenty Shares, whereby the Capital Stock of the said Company consisted of Two thousand and twenty Shares: And whereas it will facilitate the Transfer and Sale of Shares of Stock of the said Navigation if the said Shares were farther subdivided, and their Number increased; be it therefore enacted, That from and after the passing of this Act the Capital Stock of the said Company shall be divided and distinguished into Eight thousand and eighty equal Parts or Shares, in place of Two thousand and twenty Shares, as divided by the said last-mentioned Act; and such Eight thousand and eighty Shares shall be and are hereby vested in the Persons of the present Proprietors of Stock in the said Navigation, and their Heirs, Executors, Administrators, or Assignees, in proportion to the Shares and Interest which the said Proprietors hold in the present Capital Stock of the said Company: Provided always, that no Proprietor, though possessed of more than Eight hundred and eight Shares, shall, by himself or Proxies, have more than Eight hundred and eight Votes at any General Meeting of the said Company.

Tolls and Duties.

XVIII. And whereas the said Canal is of the limited Extent of about Twelve Miles only in Length, and is used almost solely for the Transportation of Coals and other Minerals; and the said Company are specially empowered by the said recited Act of the Thirtieth Year of the Reign of His Majesty King *George* the Third to charge the Rates, Tolls, and Duties granted by the said Acts on all or any Sort of Goods passing upon the Whole or any Part of the said Canal, as they

they should think proper; and it would occasion great Inconvenience and Loss to the Traders and the Company if the Practice which has obtained for many Years, and upon which important Arrangements of the Lessees of Coal upon the Line of the Canal and other Traders have been formed, were altered: Be it enacted, That it shall be lawful for the said Company to charge such Rates, Tolls, and Duties as authorized by the said Act of the Thirtieth Year of the Reign of His Majesty King *George* the Third: Provided always, that all the Tolls, Rates, and Duties, and Tonnage and Wharfage Dues or Charges, which the said Company are authorized to ask and recover under the said recited Acts, shall be at all Times charged equally to all Persons in respect of all Minerals, Goods, Matters, and Things whatsoever of a like Description, carried or conveyed along or upon the same Parts and the like Distances of the said Canal, and for the same Use of the said Canal or Works therewith connected, so as that no Reduction or Advance in any such Tolls, Rates, and Duties, or Tonnage or Wharfage Dues or Charges, shall be made either directly or indirectly in favour of or against any particular Company or Person using the said Canal and Works under the same Circumstances.

Repeal of Exemption from Poor Rates.

XIX. And be it enacted, That so much of the said recited Acts or any of them as enacts that the said Company of Proprietors should not be chargeable with any Part or Portion of the Poor Rates for the Lands to be set out and purchased by them for the Use of the said Navigation and Road or Waggon Way thereby authorized to be made, but that the same should be chargeable upon the Lands remaining with the Vendor or Vendors after such partial Alienation to the said Company, shall be and the same is hereby repealed; and nothing in the said recited Acts or this Act shall be construed to exempt the said Company of Proprietors from such Liability (if any) to be rated to the Relief of the Poor as would have attached to them if the Provisions of the said recited Acts hereby repealed have never been enacted.

Canal not to be exempted from Prison Assessment.

XX. And be it enacted, That nothing herein contained shall exempt the said Canal from the Assessment authorized to be levied under an Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, intituled *An Act to improve Prisons and Prison Discipline in* Scotland.

Repeal of Clause in the first-recited Act respecting Limitation of Actions.

XXI. And whereas it was enacted by the said first-recited Act, that if any Action, Suit, or Information should be brought or commenced against any Person or Persons for any thing done or to be done in pursuance thereof, or in the Execution of the Powers and Authorities or in the Orders and Directions therein given, every such Suit or Information should be brought or commenced within Six Calendar Months next after the Fact committed, or in case there should be a Continuation of Damages then within Six Calendar Months next after the doing or committing such Damages should cease, and not afterwards, and that the Defendant or Defendants in such Action and Suit might produce the said Act, and plead that the said Things were done in pursuance and by the Authority thereof; and if it should appear so to be done, or if any Action, Suit, or Information

formation should be brought after the Time so limited for bringing the same, that then the Defendants should be absolved from every such Action or Actions, and should have Treble Costs and Expences in the Defence thereof awarded to them from and against the Prosecutor or Prosecutors of the same: And whereas it is expedient that such Limitation of Actions, Suits, or Complaints should be repealed; be it therefore enacted, That the said recited Enactment shall be and the same is hereby repealed.

Interpretation Clause.

XXII. And be it enacted, That in this Act and the Schedules hereunto annexed the following Words shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number:

Words importing the Masculine Gender shall include Females:

The Expression Canal or Navigation shall mean the *Monkland* Canal or Navigation:

The Expression "the Company" shall mean the Company of Proprietors of the *Monkland* Navigation:

The Expression the "Committee of Management" shall mean the Committee of Management of the said Company:

The Word "Mortgage" shall include Assignation or Conveyance, or other Deed proper by the Law of *Scotland* for constituting the Security.

Expences of Act how to be defrayed.

XXIII. And be it enacted, That the Costs and Charges of applying for, obtaining, and passing this Act shall and may be defrayed by and out of the Monies to be so borrowed in virtue of this Act, or levied and received by virtue of the said recited Acts.

Public Act.

XXIV. And be it enacted, That this Act shall be deemed and be taken to be a Public Act, and shall be judicially taken notice of as such.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

Form of Mortgage.

The Company of Proprietors of the Monkland Navigation.

Mortgage, No. £

'BY virtue of an Act passed in the Fourth and Fifth Years of 'the Reign of Her Majesty Queen Victoria, intituled "An Act to 'enable the Monkland Canal Company to raise a further Sum 'of Money," and the Acts therein recited, we, the Company of 'Proprietors

'Proprietors of the Monkland Navigation, in consideration of the Sum of paid to us by *A. B.* of do hereby assign and convey unto the said *A. B.*, his Executors, Administrators, and Assignees, the said Undertaking, and all the Tolls and Sums of Money arising by virtue of this and the said recited Acts, and all the Estate, Right, Title, and Interest of the Company in the same; to hold unto the said *A. B.*, his Executors, Administrators, and Assignees, until the said Sum of Pounds, together with Interest for the same at the Rate of for every One hundred Pounds by the Year, be satisfied [the Principal Sum to be repaid at the End of Years (*in case any Period be agreed on for that Purpose*)]. In witness whereof I Clerk to the said Monkland Navigation, as authorized by the Committee of Management under the Powers of the said recited Act of the Fourth and Fifth Year of the Reign of Her said Majesty, have hereto set my Hand and affixed hereto the Seal of the said Company at [*here insert a Testing Clause according to the Form of the Law of Scotland*].'

SCHEDULE (B.)

Form of Transfer.

'I *A. B.* of in consideration of the Sum of paid to me by *C. D.* of do hereby transfer to the said *C. D.*, his Executors, Administrators, and Assignees, a certain Mortgage, Number made by the Company of Proprietors of the Monkland Navigation to bearing Date the Day of for securing the Sum of and Interest [*or if such Transfer be by Indorsement*, the within Security], and all my Right, Estate, and Interest in and to the Money thereby secured, and in and to the Tolls, Money, and Property thereby assigned or conveyed. In witness whereof [*here insert a Testing Clause according to the Form of the Law of Scotland*].'

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