CHAPTER xxxv.

An Act for conferring further powers on the Glasgow and South-western Railway Company for the construction of works the acquisition of lands and the raising of money and for other purposes. [19th June 1882.] A.D. 1882.

WHEREAS it is expedient that the Glasgow and South-western Railway Company (herein-after called "the Company") should be empowered to construct the new railway and other works and acquire the additional lands herein-after respectively described or referred to:

And whereas it is expedient that the Company should be empowered to raise a further sum of money for the purposes of this Act and for the completion of their College station at Glasgow and for the general purposes of their undertaking:

And whereas plans and sections showing the lines and levels of the said railway and works and plans showing the lands required or which may be taken for the purposes or under the powers of this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the principal sheriff clerks for the several counties within which those works will be constructed or lands are situate which plans sections and books of reference are herein-after respectively referred to as the deposited plans sections and books of reference:

And whereas the purposes of this Act cannot be effected without the 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 as follows:—

1. This Act may be cited for all purposes as the Glasgow and South-western Railway Act 1882. Short title.

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Incorporation of general Acts.

8 & 9 Vict. c. 19.
23 & 24 Vict. c. 106.
8 & 9 Vict. c. 33.
26 & 27 Vict. c. 92.
8 & 9 Vict. c. 17.

2. The Lands Clauses Consolidation (Scotland) Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 the Railways Clauses Consolidation (Scotland) Act 1845 and Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;
The transfer or transmission of shares;
The payment of subscriptions and the means of enforcing the payment of calls;
The forfeiture of shares for nonpayment of calls;
The remedies of creditors of the Company against the shareholders;
The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of the shares into stock;
The general meetings of the Company and the exercise of the right of voting by the shareholders;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 are except where expressly varied by this Act incorporated with and form part of this Act.

26 & 27 Vict. c. 118.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction the expression "the railway" shall mean the railway by this Act authorised or any part thereof.

Power to make railway and works.

4. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway and other works herein-after described with all proper stations sidings approaches works and conveniences connected with such railway and may exercise the other powers herein-after mentioned and may subject to the provisions of this Act enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference relating thereto as may be required for those purposes

The railway and other works herein-before referred to and authorised by this Act are :—

A railway one mile four furlongs in length commencing by a junction with the Paisley Canal line authorised by the Glasgow and South-western Railway Act 1881 at a point thereon six hundred and fifty yards or thereabouts in an easterly direction from the bridge carrying Fulbar Road over the Company's canal between Glasgow Paisley and Johnstone and terminating at the west side of the turnpike road leading from Paisley to Barrhead by Potterhill at a point four hundred and fifty yards or thereabouts in a southerly direction from Causeyside toll-house which railway will be wholly situate in the Abbey parish of Paisley in the county of Renfrew ; 44 & 45 Vict. c. cxlix.

The widening on the north side thereof of the bridge in the Abbey parish of Paisley and county of Renfrew which carries the Company's railway over Campbell Street in Johnstone ;

An additional arch or opening in the parish of Kilmarnock in the county of Ayr under Bonnyton Road on the southern side of and adjoining the existing arch or opening by which the said road is carried over the Company's railway ;

The reconstruction and lengthening on the eastern side thereof of the bridge near the Company's Dumfries passenger station in the parish and royal burgh of Dumfries in the county of Dumfries which carries the turnpike road from Dumfries to Lockerbie over the Company's railway.

As to tolls on railway.

5. The railway by this Act authorised shall for the purpose of tolls rates and charges and for all other purposes whatsoever form part of the undertaking of the Company.

Dimensions of a certain bridge.

6. The railway shall be carried over the turnpike road from Maxwelton to Ayrshire numbered on the deposited plans 20 in the Abbey parish of Paisley by a bridge having a clear span of not less than thirty-seven feet six inches measured on the square and a clear height of not less than sixteen feet throughout measured from the centre line of the carriageway and the said bridge shall be constructed and all operations connected therewith shall be carried on to the reasonable satisfaction of the surveyor for the time being of the said road.

Imposing penalty unless railway opened.

7. If the Company fail within the period limited by this Act to complete the railway the Company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the railway is completed and opened for public traffic or until the sum received in respect of such penalty shall amount to

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five per centum on the estimated cost of the railway and the said penalty may be applied for by any landowner or other person claiming to be compensated in respect of the railway in accordance with the provisions of the next following section of this Act or by the solicitor of Her Majesty's Treasury and in the same manner as the penalty provided in section 3 of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland in the bank named in such order and shall not be paid thereout except as herein-after provided But no penalty shall accrue in respect of any time during which it shall appear by a certificate to be obtained from the Board of Trade that the Company was prevented from completing or opening the railway by unforeseen accident or circumstances beyond their control Provided that want of sufficient funds shall not be held to be a circumstance beyond their control.

17 & 18 Vict. c. 31.

Application of penalty towards compensation of parties injured.

8. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the "Edinburgh Gazette" shall be applied towards compensating any landowners or other persons whose property may have been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who may have been subjected to injury or loss in consequence of the compulsory powers conferred upon the Company by this Act of taking property for the purposes of the railway and for which injury or loss no compensation or inadequate compensation shall have been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit and if no such compensation shall be payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid shall have been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid to or for the account of Her Majesty's Exchequer in such manner as the Court of Exchequer in Scotland thinks fit to order on the application of the solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Court if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall

wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Period for completion of railway.

9. If the railway by this Act authorised is not completed within the period of five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Company may acquire additional lands for purposes connected with their undertaking.

10. Subject to the provisions of this Act and in addition to the other lands which they are by this Act authorised to acquire the Company may from time to time enter upon take use and appropriate to the purpose of extending their station siding and other accommodation and for other purposes connected with their undertaking all or any of the lands houses and buildings following delineated on the deposited plans and described in the deposited books of reference relating thereto respectively (that is to say) :—

Certain lands in the parish of Kilmalcolm in the county of Renfrew on the south-west side of and adjoining the Company's railway at or near Kilmalcolm station and the Company may stop up and discontinue the occupation road or archway under the said railway one hundred and sixty-five yards or thereabouts north-westwards of the booking-office at the said station ;

Certain lands houses and buildings at Johnstone in the Abbey parish of Paisley in the county of Renfrew on the north side of and adjoining the Company's railway and on both sides of Campbell Street Johnstone ;

Certain lands at Kilwinning in the parish of Kilwinning in the county of Ayr lying on both sides of and adjoining the Company's railways at or near Kilwinning station and the Company may stop up the occupation level crossing over the said railway two hundred and forty yards or thereabouts northwards of the booking office at the said station ;

Certain lands in the parish of Ardrossan in the county of Ayr lying on both sides of and adjoining the Company's railway near Holm Junction ;

Certain lands houses and buildings at Girvan in the parish of Girvan in the county of Ayr lying on both sides of and adjoining the Company's railway at or near Girvan station ;

Certain lands at Dreghorn in the parish of Irvine in the county of Ayr lying on the north side of and adjoining the Company's railway at or near Dreghorn station.

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Period for compulsory purchase of lands.

11. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Lands for extraordinary purposes.

12. The quantity of land to be taken by the Company under this Act for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 shall not exceed two acres.

Power to take easements by agreement.

13. Persons empowered by the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting lands and the provisions of the said Acts with respect to lands and feu duties or ground annuals as far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid respectively.

Owners may be required to sell parts only of certain lands and buildings.

14. And whereas it may happen that portions only of the lands buildings and manufactories shown on the deposited plans and subject to be taken for certain of the purposes of this Act will be sufficient for those purposes and that such portions may be severed from the remainder of such properties without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and persons interested in the properties numbered on the deposited plans 9 10 11 12 13 14 15 16 35 36 38 39 40 and 41 in the Abbey parish of Paisley and whereof portions only are required for the purposes of this Act may if such portions can in the judgment of the sheriff or the jury or the arbiters as the case may be assessing or determining the compensation under that Act be severed from the remainder of the said properties without material detriment thereto be required to sell and convey to the Company the portions only of the same required as aforesaid without the Company being obliged or compellable to purchase the whole or any greater portion of the said properties the Company paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other persons interested therein by the taking of such portions.

Classification table to be open to inspection and copies to be sold:

15. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railways of the Company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other docu-

ment as annually revised shall be kept on sale at the principal office of the Company at a price not exceeding one shilling:

Terminal charges if any to be specified on application.

The Company shall within one week after application in writing made to the secretary of the Company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the Company for the carriage of such goods shall be divided and the charge for conveyance over the railway shall be distinguished from the terminal charges if any and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified:

If the Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

36 & 37 Vict. c. 48.

Power to Company to raise additional capital.

16. The Company from time to time may raise for the purposes of this Act and for the completion of their College station at Glasgow and for the general purposes of their undertaking by the creation and issue of new shares or stock such additional capital as they think fit not exceeding in the whole the sum of one hundred and eighty thousand pounds and they may create and issue such new shares or stock either wholly or partially as ordinary or wholly or partially as preferential shares or stock as they may think fit.

Shares not to be issued until one fifth paid.

17. The Company shall not issue any share under the authority of this Act nor shall any share vest in the person accepting the same unless and until a sum not being less than one-fifth part of the amount of such share shall have been paid in respect thereof.

Scale of voting in respect of new shares or stock.

18. At all general meetings of the Company every holder of shares or stock of the Company created under this Act shall have the right of voting in respect thereof on the principle of having one vote for every sum of one hundred pounds actually paid up in respect of the whole of such shares or stock for the time being held by him up to one thousand pounds and he shall have an additional vote for every sum of five hundred pounds actually paid up on such shares or stock beyond the first one thousand pounds up to ten thousand pounds and an additional vote for every sum of one thousand pounds actually paid up on such shares or stock beyond the first ten thousand pounds Provided that no person shall be entitled to vote in respect of any less amount than one hundred pounds paid up Pro-

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vided also that (unless otherwise specified in any resolution of the Company) no person shall be entitled to vote in respect of any share created or issued under this Act to which a preferential dividend shall be assigned.

Power to Company to borrow.

19. The Company may in respect of the additional capital of one hundred and eighty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage such sums as they think fit not exceeding in the whole sixty thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such sheriff as aforesaid that such shares or stock as the case may be were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said capital is raised by shares that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

Repealing provisions of former Acts with respect to the appointment of a judicial factor.

20. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a judicial factor for enforcing payment by the Company of arrears of principal money or interest or principal money and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such provision.

For appointment of a judicial factor.

21. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor In order to

authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than ten thousand pounds in the whole.

Former mortgages to have priority.

22. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and which shall be subsisting at the time of the passing thereof shall during the continuance of such mortgages and bonds and as regards the undertaking comprised in and assigned by such mortgages and bonds respectively and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted have priority over any mortgages to be granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any funded debt or debenture stock at any time created by the Company.

Power to Company to create debenture stock.

23. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Application of moneys raised by Company.

24. All moneys raised by the Company under the provisions of this Act whether by shares debenture stock or borrowing shall be applied for the purposes for which the same is by this Act authorised to be raised and to no other purpose.

Power to Company to apply authorised capital to purposes of this Act.

25. The Company may apply to or towards all or any of the purposes of this Act any sums of money which they have already raised or are authorised to raise by any of their Acts and which are not required for the purposes to which they are by those Acts made specially applicable.

Interest not to be paid on calls paid up.

26. The Company shall not out of any money by this Act authorised to be raised pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Deposits for future Bills not to be

27. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any

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paid out of capital.

standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

28. Nothing herein contained shall exempt the Company or the railways from the provisions of any general Act relating to railways or to the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges and of the rates for small parcels authorised to be taken by the Company.

Expenses of Act.

29. All the costs charges and expenses of and incident to the obtaining of this Act and preparatory thereto shall be paid by the Company.

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