CHAPTER xlviii.

An Act to enable the Moffat Railway Company to construct a railway to the Beattock Station of the Caledonian Railway Company and for other purposes. [19th June 1882.] A.D. 1882.

WHEREAS by the Moffat Railway Act 1881 (in this Act called "the Act of 1881") a company (in this Act called "the Company") was incorporated and authorised to make and maintain a railway in the county of Dumfries described in that Act and was authorised to raise a share capital of sixteen thousand pounds and to borrow five thousand three hundred and thirty pounds: 44 & 45 Vict. c. lxxxii.

And whereas it is expedient that the Company should be authorised to make and maintain the railway herein-after described and to raise further share capital and to borrow further moneys:

And whereas it is expedient that the Company and the Caledonian Railway Company should be empowered to enter into and carry into effect working agreements:

And whereas plans and sections showing the line and levels of the railway together with books of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands and property required or which may be taken for the purposes of or under the powers of this Act have been deposited for public inspection in the office of the principal sheriff clerk of the county of Dumfries and are herein-after 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 Moffat 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) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 and 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" means the railway by this Act authorised or any part thereof.

Power to make railway.

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 hereinafter described with all proper stations sidings approaches works and conveniences connected with such railway and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required

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

A railway 2 furlongs 1 chain and 15 links in length to be wholly situate in the parish of Kirkpatrick Juxta in the county of Dumfries commencing by a junction with the railway authorised by the Moffat Railway Act 1881 at or near the south-eastward corner of the bridge carrying the public road leading from Beattock to Kinnelhead over the Caledonian Railway and terminating at or near the north-east corner of the passenger footbridge over the said Caledonian Railway at Beattock Station.

For protection of Caledonian Railway.

5. The railway by this Act authorised shall be constructed with a bay or dock on the eastern side of the eastern platform of Beattock Station in such situation (but so as not to interfere with the existing platform of and approaches to the said station) according to such plans sections and working drawings and subject to such provisions with respect to the user and management thereof as shall be agreed upon between the Company and the Caledonian Railway Company or in the event of difference as shall be determined by an engineer to be appointed by the Board of Trade. The Company shall pay to the Caledonian Railway Company the expense to which that company may be put in the alteration or reconstruction of their Beattock Station goods sheds switches sidings signals signal cabins and other works in order to allow of the formation of the railway and bay or dock by this Act authorised or necessary in consequence thereof (including the cost of any additional land required for those purposes) and in the event of any dispute between the Company and the Caledonian Railway Company as to the necessity of such alteration or reconstruction or as to the expense thereof or as to the extent to which such necessity may be caused by the Company such dispute shall be determined by an engineer to be appointed by the Board of Trade. The expenses of the engineer to be appointed by the Board of Trade in either event in this section provided shall be paid by the Company.

Period for compulsory purchase of lands.

6. 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 two years from the passing of this Act.

New railway to be part of the Company's undertaking.

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

Deposit money not to be repaid

8. Whereas pursuant to the standing orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her

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except so far as railway is opened.

present Majesty, chapter twenty, a sum of one hundred pounds being five per centum upon the amount of the estimate in respect of the railway authorised by this Act has been deposited with the Court of Exchequer in Scotland in respect of the application to Parliament for this Act which sum is referred to in this Act as the "deposit fund:" Be it enacted that notwithstanding any thing contained in the said recited Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for the completion of the railway open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any portion of the railway for the public conveyance of passengers then on production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the court shall on the application of the depositors or the majority of them or the survivor of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of deposit.

9. If the Company do not previously to the expiration of the period limited by this Act for the completion of the railway complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the "Edinburgh Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has 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 is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Court 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 judicial factor has been appointed shall wholly or in part be paid or transferred to such judicial factor 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: Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Period for completion of works.

10. If the railway is not completed within 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 railway or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Power to Company to raise additional capital.

11. The Company may from time to time raise for the purposes of this Act and for the general purposes of their undertaking by the creation and issue of new shares such additional capital as they think fit not exceeding in the whole the sum of three thousand pounds and they may create and issue such new shares either wholly or partially as ordinary or wholly or partially as preferential shares as they may think fit.

Shares not to be issued until one fifth paid.

12. The Company shall not issue any share under the authority of this Act of less nominal value than ten pounds 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.

Except as otherwise provided new shares or stock to be subject to the same incidents as other shares or stock.

13. Except as by this Act otherwise provided, the capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital.

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And to form part of capital of Company.

14. The capital in new shares so created shall form part of the capital of the Company.

Power to Company to borrow.

15. The Company may in respect of the additional capital of three 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 one thousand pounds but no part thereof shall be borrowed until the whole additional capital has been 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 the whole of such capital has 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 that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and 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.

Provisions of Act of 1881 as to appointment of a judicial factor repealed.

16. Section 20 of the Act of 1881 with respect to the appointment of a judicial factor for enforcing payment by the Company of arrears of interest or principal or principal 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.

17. 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 six hundred pounds in the whole.

Former mortgages to have priority.

18. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over any mortgages granted by virtue of this Act.

Power to Company to create debenture stock.

19. 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 and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without reference to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages.

Application of moneys raised by Company.

20. All moneys raised by the Company under the provisions of this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and to the general purposes of the Company to which capital is properly applicable.

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

21. Subject to the provisions of this Act 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 the Act of 1881 and which are not required for the purposes to which they are by that Act made specially applicable.

Working and traffic arrangements with Caledonian Railway Company. 36 & 37 Vict. c. 48.

22. The Company on the one hand and the Caledonian Railway Company on the other hand may subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873 from time to time enter into and carry into effect agreements which respect to the following purposes or any of them (that is to say):—

The maintenance and management by the two companies or either of them of the railways of the Company or any part thereof and the works connected therewith or any of them;

The use or working of the said railways or any part thereof and the conveyance of traffic thereon and the employment of officers and servants;

The supply during the continuance of any agreement for the use and working of the said railways or any part thereof by the Caledonian Railway Company of stock plant and machinery necessary for the purposes thereof;

The fixing and collection and apportionment of the tolls rates charges receipts and revenues levied taken or arising in respect of traffic;

The payments and allowances to be made and the conditions to be performed with respect to the matters aforesaid.

Tolls on traffic conveyed partly

23. During the continuance of any agreement to be entered into under the provisions of this Act for the working and use of

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on the railways and partly on the railways of Caledonian Railway Company.

the railways of the Company or any part thereof by the Caledonian Railway Company the railways of the Company and of the Caledonian Railway Company shall for the purposes of short distance tolls and charges be considered as one railway and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railways of the Company and partly on the railways of the Caledonian Railway Company for a less distance than three miles tolls and charges may only be charged as for three miles and in respect of passengers for every mile or fraction of a mile beyond three miles tolls and charges as for one mile only and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond three miles tolls and charges as for a quarter of a mile only and no other short distance charge shall be made for the conveyance of passengers animals or goods partly on the railways of the Company and partly on the railways of the Caledonian Railway Company.

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

24. 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 document 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.

25. 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 section 14 of the Regulation of Railways Act 1873.

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. A.D. 1882.

Deposits for future Bills not to be paid out of capital.

27. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any 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 in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or 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 or of the rates for small parcels authorised by this Act.

Costs of Act.

29. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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