CHAPTER clxxvi.

An Act for making a railway from Moniaive, in the county of Dumfries, to a point near to the Auldgirth Station of the Glasgow and South-western Railway; and for other purposes. [6th August 1872.] A.D. 1872

WHEREAS the making of a railway from the village of Moniaive to the Auldgirth Station of the Glasgow and South-western Railway, in the county of Dumfries, would be of great public and local advantage:

And whereas the several persons herein-after named, with others, are willing at their own expense to construct the proposed railway, and it is expedient that they should be incorporated into a company for the purposes of this Act:

And whereas plans and sections showing the situation, lines, and levels of the proposed railway, and the lands and property proposed to be taken for the purposes thereof, and a book of reference to such plans, containing the names of the owners and lessees, or reputed owners and lessees, and the occupiers of such lands and property respectively, have been deposited with the sheriff clerk of the county of Dumfries (which plans, sections, and book of reference are herein referred to as the deposited plans, sections, and book of reference):

And whereas it is expedient that such agreements should be authorised with the Glasgow and South-western Railway Company, and such powers should be granted in relation to the said last-mentioned company and their railways and works, as are herein-after expressed:

And whereas the purposes aforesaid 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,

A.D. 1872.

and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Glencairn Railway Act, 1872."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation (Scotland) Act, 1845," "The Lands Clauses Consolidation (Scotland) Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Railways Clauses Consolidation (Scotland) Act, 1845," Parts I. and III. of "The Companies Clauses Act, 1863," and Part I. (excepting sections thirteen to nineteen, both inclusive,) and Part III. of "The Railways Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

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 Company" means the Company incorporated by this Act; the expressions "the railway" and "the undertaking" mean respectively the railway and undertaking by this Act authorised; the expression "the South-western Railway" means the Glasgow and South-western Railway; and the expression "the South-western Company" means the Glasgow and South-western Railway Company.

Company incorporated.

4. Thomas Goldie Scot, William Smith, Samuel M'Call, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the railway, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Glencairn Railway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make railway according to deposited plans.

5. 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 herein-after described, with all proper stations, approaches, works, and conveniences connected therewith, 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 herein-before referred to and authorised by this Act is:

A railway ten miles four furlongs and 3·20 chains in length, commencing in the parish of Glencairn and county of Dumfries, near to the village of Moniaive, in a field belonging to and occupied by William Smith, Esquire, banker there, and lying to the south-east of and immediately adjoining the garden attached and pertaining to the house and offices of the Moniaive branch of the Union Bank of Scotland, and terminating in the parish of Kirkmahoe and county aforesaid, by a junction with the South-western Railway, at a point thereon fifteen chains or thereabouts, measured along the line of the said railway in a south-easterly direction, from the centre of the bridge carrying the public road from Auldgirth Bridge to Dalswinton village over the said South-western Railway.

Capital.

6. The capital of the Company shall be sixty thousand pounds, in six thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

7. The Company shall not issue any share created 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 of the amount of such share shall have been paid in respect thereof.

Calls.

8. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

9. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twenty thousand pounds, but no part thereof shall be borrowed until the whole capital of sixty thousand pounds is subscribed for, issued, and accepted, and one half thereof 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 subscribed for, issued, and accepted, and that one half thereof 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 subscribers or their assigns, and that such subscribers or their 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

A.D. 1872.

certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

10. 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; and in order to authorise the appointment of a judicial factor in respect of arrears of principal or interest, the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than two thousand pounds in the whole.

Debenture stock.

11. The Company may create and issue debenture stock.

Application of moneys.

12. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

13. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Number of directors.

14. The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

15. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Quorum.

16. The quorum of a meeting of directors shall be three, unless the number of directors is reduced to three, and then the quorum shall be two.

First directors.

17. Thomas Goldie Scot, William Smith, Samuel M'Call, James Lindsay, and James Colston shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present, in person or by proxy, may either continue in office the directors appointed by this Act or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present, in person or by proxy, shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation (Scotland) Act, 1845," contained, and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

Lands for extraordinary purposes.

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

Powers for compulsory purchases limited.

19. 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.

Power to cross a certain road on the level.

20. Subject to the provisions in "The Railways Clauses Consolidation (Scotland) Act, 1845," and in Part I. (relating to the construction of a railway) of "The Railways Clauses Act, 1863," contained in reference to the crossing of roads on the level, the Company may, in the construction of the railway, carry the same with a single line only whilst the railway shall consist of a single line, and afterwards with a double line only, across and on the level of the road next herein-after mentioned; (that is to say,)

No. on deposited plan.	Parish.	Description of road.
189	Glencairn - - - -	Public road.

Dimension of bridges.

21. It shall be lawful for the Company to construct the bridges for carrying the following roads over the railway of such dimensions as they may think fit, provided the roads over the bridges have a clear space between the fences of the extents respectively following; (that is to say,)

No. on deposited plan.	Parish.	Description of road.	Clear space between fences.
44	Glencairn - -	Public road - -	20 feet.
101	Glencairn - -	Public road - -	20 feet.
106	Glencairn - -	Public road - -	20 feet.
3	Dunscore - -	Public road - -	20 feet.
52	Dunscore - -	Public road - -	20 feet

Power to stop up road.

22. It shall be lawful for the Company permanently to stop up the road numbered on the deposited plans $\frac{45}{1}$, in the parish of Dunscore, and marked in the deposited sections, without substituting another therefor.

Notice to be given of taking houses of labouring classes.

23. The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice, placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained

A.D. 1872.

the certificate of a sheriff that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Deposit money not to be repaid until line opened or half the capital paid up and expended.

24. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth and tenth years of Her present Majesty, chapter twenty, a sum of two thousand six hundred and seventy-seven pounds ten shillings, being five per centum upon the amount of the estimate in respect of the railway, has been deposited with the Court of Exchequer in Scotland in respect of the application to Parliament for this Act: Be it enacted, that, notwithstanding anything contained in the said recited Act, the said sum of two thousand six hundred and seventy-seven pounds ten shillings so deposited as aforesaid in respect of the application for this Act 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, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the railway either open the said railway for the public conveyance of passengers, or prove to the satisfaction of the Board of Trade that the said Company have paid up one half of the amount of the capital by this Act authorised to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one half of the said capital; and if the said period shall expire before the Company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Board of Trade, the said sum of money deposited as aforesaid shall be applied in the manner herein-after specified; and the certificate of the Board of Trade that such proof has been given to their satisfaction as aforesaid shall be sufficient evidence of the fact so certified, and it shall not be necessary to produce any certificate of this Act having passed, anything in the said recited Act to the contrary notwithstanding.

Application of deposit.

25. The said sum of money deposited 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 of taking property conferred upon the Company by this Act, 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 said sum of money shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be paid to or on the application of the person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them: Provided that until the said sum of money shall have been repaid to the depositors, or shall have become otherwise applicable as hereinbefore 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 person or persons, or the majority of the persons, named in such warrant or order as aforesaid, or the survivors or survivor of them.

Period for completion of works.

26. The railway shall be completed within four years from the passing of this Act; and if the railway shall not be completed within that period, then on the expiration thereof 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 shall then be completed.

Tolls for passengers.

27. The Company may demand and take in respect of the use of the railway any tolls not exceeding the following; (that is to say,)

In respect of passengers and animals conveyed in carriages on the railway:

For any person conveyed in or upon any such carriage, per mile not exceeding twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one penny:

Class 1. For every horse, ass, mule, or other beast of draught or burden conveyed in or upon any such carriage, per mile not exceeding twopence halfpenny; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one penny halfpenny:

Class 2. For every ox, cow, bull, or head of neat cattle conveyed in or upon any carriage, per mile not exceeding twopence; and if conveyed in or upon any carriage belonging to the Company, an additional sum per mile not exceeding one penny:

Class 3. For every calf, pig, sheep, lamb, or other small animal conveyed in or upon any such carriage, per mile not exceeding one penny halfpenny; and if conveyed in or upon any carriage

A.D. 1872.

belonging to the Company, an additional sum per mile not exceeding one halfpenny.

Tonnage for articles of merchandise.

In respect of the tonnage of all articles conveyed upon the railway:

Class 4. For all coal, coke, culm, charcoal, and cinders, all stones for building, pitching, and paving, all bricks, tiles, slates, clay, sand, dung, compost, and all sorts of manure, lime and limestone, and all undressed materials for the repair of public roads or highways, per ton per mile not exceeding one penny halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one halfpenny:

Class 5. For all ironstone and iron ore, pig iron, bar iron, rod iron, hoop iron, and all other similar descriptions of wrought iron and iron castings not manufactured into utensils or other articles of merchandise, per ton per mile not exceeding threepence; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny:

Class 6. For all sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, and deals, metals (except iron), nails, anvils, vices, and chains, per ton per mile not exceeding threepence halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding one penny halfpenny:

Class 7. For all cotton and other wools, drugs, manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton per mile not exceeding fourpence halfpenny; and if conveyed in carriages belonging to the Company, an additional sum per ton per mile not exceeding twopence:

Class 8. And for every carriage of whatever description, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, per mile not exceeding sixpence; and if any such carriage be conveyed on a truck or platform belonging to the Company, an additional sum per mile not exceeding twopence; and for every additional quarter of a ton or fractional part of a quarter of a ton beyond one ton which any such carriage may weigh, further tolls not exceeding one penny halfpenny; and for the use of any truck or platform provided by the Company, one halfpenny.

Tolls for propelling power.

28. The toll which the Company may demand for the use of engines for propelling carriages on the railway shall not exceed one penny per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this Act authorised to be taken.

A.D. 1872.

Regulations as to tolls.

29. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act; (that is to say,)

For all passengers, animals, or goods conveyed on the railway for a less distance than four miles, the Company may demand tolls and charges as for four miles:

For a fraction of a mile beyond four miles or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the numbers of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile; and in respect of passengers, every fraction of a mile beyond an integral number of miles shall be deemed a mile:

For a fraction of a ton the Company may demand tolls according to the number of quarters of a ton in such fraction; and if there be a fraction of a quarter of a ton, such fraction shall be deemed a quarter of a ton:

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight:

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small parcels and single articles of great weight.

30. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this Act, the Company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway:

For any parcel not exceeding seven pounds in weight, threepence:

For any parcel exceeding seven pounds but not exceeding fourteen pounds in weight, fivepence:

For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight, sevenpence:

For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight, ninepence:

For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight, the Company may demand any sum which they may think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee,

A.D. 1872.

meal, and the like, shall not be deemed small parcels, but that term shall apply only to single parcels in separate packages.

For the carriage of single articles of great weight on the railway:

For the carriage of any one boiler, cylinder, or other single piece of machinery, or single piece of timber or stone, or other single article, the weight of which, including the carriage, shall not exceed eight tons, the Company may demand any sum not exceeding, for the use of the railway, one shilling per ton per mile; and if conveyed in or upon any carriage belonging to the Company, an additional sum per ton per mile not exceeding fourpence; and if drawn or propelled by an engine belonging to the Company, a further sum per ton per mile not exceeding threepence:

For the carriage of any one boiler, cylinder, or any single piece of machinery, or single piece of timber, stone, or other single article, the weight of which, with the carriage, shall exceed eight tons, the Company may demand such sum as they think fit.

Maximum rates for passengers.

31. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

For every passenger conveyed in a first-class carriage, the sum of threepence per mile:

For every passenger conveyed in a second-class carriage, the sum of twopence per mile:

For every passenger conveyed in a third-class carriage, the sum of one penny per mile.

Maximum rates for animals and goods.

32. The maximum rate of charge to be made by the Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the Company), shall not exceed the following sums; (that is to say,)

For every animal comprised under Class 1, fourpence per mile:

For every animal comprised under Class 2, twopence halfpenny per mile:

For every animal comprised under Class 3, twopence per mile:

For all articles comprised under Class 4, one penny halfpenny per ton per mile:

For all articles comprised under Class 5, twopence per ton per mile:

For all articles comprised under Class 6, threepence per ton per mile:

For all articles comprised under Class 7, fourpence per ton per mile:

For every carriage comprised under Class 8, not weighing more than one ton, not exceeding sixpence per mile; and if weighing more than one ton, not exceeding one penny halfpenny per mile for every quarter of a ton or fractional part of a quarter of a ton.

Passengers luggage.

33. Every passenger travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal station.

34. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Restrictions as to charges not to apply to special trains.

35. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the Company may make such charges as they think fit, but shall apply only to the ordinary and express trains appointed from time to time by the Company for the conveyance of passengers and goods upon the railway.

Company may take increased charges by agreement.

36. Nothing in this Act shall prevent the Company from taking any increased charges, over and above the charges by this Act limited, for the conveyance of animals or goods of any description, by agreement with the owners or persons in charge thereof, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

Power to enter into working agreements

37. The Company on the one hand and the South-western Company on the other hand may, subject to the provisions of Part III. of "The Railways Clauses Act, 1863," from time to time enter into

A.D. 1872.

with South-western Railway Company.

working agreements with respect to the following purposes, or any of them; (that is to say,)

The management, use, working, and maintenance of the railway, or of any part or parts thereof:

The supply of any rolling or working stock, and of officers and servants for the conduct of the traffic on the railway:

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

The interchange, accommodation, conveyance, and delivery of traffic coming from or destined for the undertakings of the contracting companies, and the fixing and division between the said Companies of the receipts arising from such traffic.

Tolls on traffic conveyed partly on the railway and partly on the railway of the South-western Railway Company.

38. During the continuance of any agreement to be entered into under the provisions of this Act for the use of the railway by the South-western Company, the railways of the Company and of the South-western Company shall, for the purposes of 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 railway and partly on the railway of the South-western Company for a less distance than four miles, tolls and charges may only be charged as for four miles; and in respect of passengers, for every mile or fraction of a mile beyond four 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 four 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 railway and partly on the railway of the South-western Railway Company.

Interest not to be paid on calls paid up.

39. The Company shall not, out of any money by this Act authorised to be raised by calls, debenture stock, or borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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 Act, 1845."

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

40. 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.

Railway not exempt from provisions of present and future general Acts.

41. Nothing herein contained shall be deemed or construed to exempt 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.

Expenses Act.

42. 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.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1872.