ANNO DECIMO OCTAVO & DECIMO NONO

# VICTORIÆ REGINÆ.

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## *Cap.* cxlii.

An Act for making and maintaining a Turnpike Road from *Charlestown of Aboyne*, by *Ballater*, *Crathie*, and *Castletown of Braemar*, to *Cairnwell Hill*, with a Branch at *Crathie*, in the County of *Aberdeen*; and for other Purposes.

[16th *July* 1855.]

WHEREAS the making and maintaining of a Turnpike Road in continuation of the existing Turnpike Road at *Aboyne* in the County of *Aberdeen*, by *Ballater*, *Crathie*, and *Castletown of Braemar* in the same County, to the Boundary between the Counties of *Aberdeen* and *Perth* at *Cairnwell Hill*, with a Branch therefrom at *Crathie* to join the public Road on the South of the River *Dee* there, would be of great public Advantage: And whereas those Objects might be conveniently effected by the Improvement and effectual Repair and Maintenance of the existing public Roads between those Points, and the Construction and Maintenance of the requisite Portions of new Road in connection therewith, and by declaring such improved and new Roads to be Turnpike Roads: And whereas those public Roads, except such Parts as herein mentioned, are at present regulated and repaired under the Provisions of an Act of Parliament

passed in the Session of Parliament held in the Thirty-ninth and Fortieth Years of the Reign of His Majesty King *George* the Third,
39 & 40 G. 3. c. xlii. intituled *An Act for repealing an Act passed in the Thirty-fifth Year of His present Majesty's Reign, intituled 'An Act for making and repairing certain Roads in the County of* Aberdeen,' *and for the more effectually amending, widening, repairing, and keeping in repair the said Roads and other Roads in the same County, and for levying a Conversion Money in lieu of the Statute Labour, and otherwise regulating the making and repairing the High Roads and Bridges in the said County:* And whereas those excepted Parts of those public Roads are known as the Approach Roads to the Bridge over the *Dee* at *Ballater*, and are at present under the Management of and are repaired by the Commissioners for Highland Roads and Bridges, appointed by Two Acts of Parliament passed respectively in the Forty-third and Fifty-ninth Years of the Reign of His Majesty King *George* the
43 G. 3. c. 80. Third, and respectively intituled *An Act for granting to His Majesty the Sum of Twenty thousand Pounds, to be raised and applied towards making Roads and building Bridges in the Highlands of* Scotland, *and for enabling the Proprietors of Land in* Scotland *to charge their Estates with a Proportion of the Expense of making and keeping in*
59 G. 3. c. 135. *repair Roads and Bridges in the Highlands of* Scotland, and *An Act to repeal Two Acts, made in the Fifty-fourth and Fifty-fifth Years of the Reign of His present Majesty, for maintaining and keeping in repair certain Roads and Bridges in* Scotland, *to provide more effectually for that Purpose, and for Regulation of Ferries in* Scotland: And whereas an Act was passed in the Session of Parliament held in the First and Second Years of the Reign of His Majesty King
1 & 2 W. 4. c. 43. *William* the Fourth, intituled *An Act for amending and making more effectual the Laws concerning Turnpike Roads in* Scotland: And whereas the aforesaid Objects 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:

Short Title. I. That in citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression "The *Ballater* Turnpike Road Act, 1855."

Interpretation of Terms. II. That in this Act the following Words and Expressions 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,)

The Expression "the Trustees" shall mean the Trustees for the Time being acting in the Execution of this Act:

The

The Word "Lands" shall include Messuages, Lands, Tenements, and Heritages of any Tenure or Description:

The Expression "the Roads" shall comprise the Roads to be respectively made, altered, improved, and maintained under the Powers of this Act:

The Expression "Toll Gates" shall include all Turnpike Bars, Chains, and Side Gates for the Time being erected or continued by the Trustees on and by the Side of the Roads:

The Word "Person" shall include Corporation.

Roads authorized by this Act to be solely managed, regulated, and repaired by the Trustees.

III. That after the passing of this Act, so much of the existing public Roads delineated on the Plan and described in the Book of Reference deposited as herein mentioned as are now respectively regulated and repaired under the Provisions of those respective Acts of the Thirty-ninth and Fortieth and Forty-third and Fifty-ninth Years of the Reign of His late Majesty King *George* the Third, and as are by this Act authorized to be improved, regulated, and repaired, (including such improved or altered Parts thereof as shall be made under the Authority of this Act,) shall cease to be regulated and repaired under the Provisions of those respective Acts, and shall be Turnpike Roads, and shall be managed, regulated, and repaired under the Authority of this Act.

Trustees.

IV. That His Royal Highness *Prince Albert* of *Saxe Coburg and Gotha*, Knight of the Most Noble Order of the Garter, whom failing, the Proprietor of the Estate of *Balmoral* for the Time being; the Proprietor of the Estate of *Aboyne* for the Time being; the Heir Apparent to the Land and Barony of *Aboyne* for the Time being; *James Farquharson* of *Invercauld*, whom failing, the Proprietor of the Estate of *Invercauld* for the Time being; *James Ross Farquharson* the younger, of *Invercauld*, whom failing, the Heir Apparent to the Estate of *Invercauld* for the Time being; *Francis Dundas Farquharson*, Second Son of the said *James Farquharson* of *Invercauld*, whom failing, the Heir Apparent to the Estate of *Monaltrie* for the Time being; *Michael Francis Gordon* of *Abergeldie*, whom failing, the Proprietor of the Estate of *Abergeldie* for the Time being; *James Duff* of *Corriemuilzie*, Esquire, whom failing, the Proprietor of the Estate of *Auchindryne* for the Time being; the Factor on the Estate of *Balmoral* for the Time being; the Factor on the Estate of *Aboyne* for the Time being; the Factor on the Estate of *Invercauld* for the Time being; the Factor on the Estate of *Monaltrie* for the Time being; the Factor on the Estate of *Abergeldie* for the Time being; the Factor on the Estate of *Auchindryne* for the Time being; and *Samuel Smith*, Secretary to the Commissioners for Highland Roads and Bridges, whom failing, the Secretary to the said Commissioners for the Time being; the Sheriff Depute for the County of

*Aberdeen*

*Aberdeen* for the Time being; and the Provost of the Burgh of *Aberdeen* for the Time being, shall be and they are hereby nominated and appointed Trustees for the Purposes of this Act: Provided always, that the Factors on the said Estates shall only be entitled to vote and act as Trustees in the Absence of the Proprietors or Heirs Apparent of such Estates respectively.

Quorum of Trustees.

V. That the Quorum of Trustees necessary to transact Business in General Meetings shall be Three; but if any Number less than Three shall be present at any of the Stated or other General Meetings, such Trustee or Trustees shall have Power to adjourn such Meeting, and in that Case Notice shall be given of the Day, Place, and Purpose of such adjourned Meeting by Two several Advertisements in some Newspaper published in the County of *Aberdeen*.

First and other Meetings of Trustees.

VI. That the Trustees shall hold their First General Meeting at *Ballater* on the Fourth *Wednesday* which shall occur next after the passing of this Act, at Noon, and proceed to put this Act into execution; and if the Number of Trustees present at such Meeting shall not be sufficient to constitute a Meeting, another Meeting shall be held at the same Place and Hour on the Fourteenth Day thereafter, and so on every Fourteenth Day until a sufficient Number of Trustees to constitute a Meeting shall have assembled.

Special Committees for Account.

VII. That the Trustees at their General Meetings assembled shall have Power to name and appoint a Special Committee of their own Number, consisting of not less than Three, for the Purpose of examining the whole annual Account of the Moneys received and disbursed.

Newspaper for Advertisements.

VIII. That Notice of all Meetings of the Trustees be given by an Advertisement inserted in Two successive Weeks in some Newspaper published and circulated in the County of *Aberdeen*.

Works to be made according to deposited Plans.

IX. And whereas a Plan and Section, and a Book of Reference thereto, of the intended new Roads and Alterations and Deviations in the existing Roads, were on the Thirtieth Day of *November* One thousand eight hundred and fifty-four deposited at the Office of the Sheriff Clerk for the County of *Aberdeen*: And whereas since the Deposit of the said Plan and Section and Book of Reference an Alteration in the Line or Course of the Road thirdly herein-after described, as shown upon the Plans deposited as aforesaid, has been deemed expedient: And whereas an amended Plan and Section, describing so much of the Works of which the Line or Course and Levels are proposed to be altered, with an amended Book of Reference thereto, were, on or about the Fifteenth Day of *May* One thousand eight hundred

hundred and fifty-five, deposited for public Inspection with the said Sheriff Clerk: Be it enacted, That the Trustees may make and maintain such intended new Roads, and make such Deviations and Alterations in the existing Roads described in the Plans so deposited on the Thirtieth Day of *November* One thousand eight hundred and fifty-four, in the Lines and in and through the Lands delineated in that Plan and described in the Book of Reference thereto, and according to the Levels shown upon the Section so deposited therewith, except as regards so much of the intended new Road as lies between the Second Furlong of the Sixteenth Mile in the Parish of *Braemar* and the Sixth Furlong of the Nineteenth Mile in the same Parish, as shown on the last-mentioned Plan, which Portion of the intended new Road shall not be made, but in lieu thereof, and between those Points, the Trustees may make and maintain the Road in the Line and in and through the Lands delineated in the amended Plan so deposited on the Fifteenth Day of *May* One thousand eight hundred and fifty-five, and described in the amended Book of Reference to that Plan, and according to the Levels shown upon the Section so deposited therewith, together with all such Footpaths, Bridges, Embankments, Ditches, Drains, Fences, and other necessary Works upon or near thereto respectively as they may think requisite; and for the Purposes aforesaid they may take possession of the Lands, Roads, and Premises described in such respective Plans and Books of Reference, making Satisfaction as in the recited Act of the First and Second Years of the Reign of His late Majesty King *William* the Fourth is provided to the Owners of such Lands and other Persons interested therein.

Description of Roads.

X. That the Roads by this Act authorized to be made, altered, improved, and maintained are as follows; (that is to say,)

First, a Road commencing in the Parish of *Aboyne* in the County of *Aberdeen* by a Junction with the *Charlestown* Turnpike Road near the Gate of the Avenue leading to *Aboyne Castle*, opposite the Inn of *Charlestown of Aboyne*, and terminating in the Parish of *Tullich* in the same County at or near the Point where the public Roads respectively leading to the Village and the Craigs of *Ballater* diverge about Three hundred Yards West of the Bridge of *Tullich* there:

Secondly, a Road commencing in the Parish of *Tullich* in the same County, from and out of the first before-described Road at the Point where the same is described as terminating, and passing thence by the Village of *Ballater*, and terminating in the Parish of *Glengairn* in the same County by a Junction with the Road thirdly described at or near the Point where the public Roads respectively leading to the Village and the Craigs of *Ballater* converge about Three hundred Yards East of the Bridge of *Gairn* there:

Thirdly, a Road commencing in the Parish of *Glengairn* by a Junction with the secondly-described Road at the Point where the same is described as terminating, and proceeding thence Westward to and over the Bridge across the *Dee* at *Invercauld*, and thence to *Castletown of Braemar*, and from thence Southward, and terminating in the Parish of *Braemar* in the same County near the Point where the Boundary between the Counties of *Aberdeen* and *Perth* crosses the public Road from *Castletown of Braemar* to the *Spital* of *Glenshee*, about Two hundred Yards South of the *Cairn Well* there:

Fourthly, a Road wholly in the Parish of *Crathie* in the same County, to commence by a Junction with the Road thirdly above described at or near the Church of *Crathie*, and to terminate by a Junction with the *South Dee Side* Road near the House occupied by *James Smith*, situate near the Easternmost Boundary of *Easter Balmoral*.

Power of Deviation.

XI. That the Trustees may, in the Construction of the Works by this Act authorized, deviate from the respective Lines thereof to the Extent delineated upon the deposited Plans, but not to any greater Extent in passing through a Town, or Lands continuously built upon, than Eleven Yards, and not to any greater Extent elsewhere than One hundred Yards from those respective Lines, nor in any Case into any Land not described in the Plan of such Work, or the Book of Reference thereto, without the Consent in Writing of the Owner and Occupier of such Land; and no Deviation shall be made from the Line of the Work where no Limit of Deviation is shown on the Plan.

Deviation from Levels.

XII. That the Trustees shall have full Power and Authority to deviate from the Levels of the Works as marked on the deposited Sections to any Extent not exceeding Five Feet, or, upon obtaining the Consent in Writing of the Owner and Occupier of the Land in which such Deviation is intended to be made, to any greater Extent than Five Feet.

Trustees may stop up Roads, &c.

XIII. That the Trustees may from Time to Time, for the Purpose by this Act authorized, and of carrying this Act into effect, cross, alter, divert, or stop up, either temporarily or permanently, all such Roads, Streams, Waters, Sewers, Drains, Pipes, Bridges, and other Works in the Parishes and Places aforesaid or any of them as it may be necessary to cross, alter, divert, or stop up: Provided always, that nothing herein contained shall authorize the Trustees to stop up permanently any existing Road which is not expressly authorized to be stopped up by this Act (other than and except such Portions of existing Roads as are rendered useless by the Roads hereby authorized being carried in a more direct Line than the existing Road), without the

the Consent in Writing under the Hands of Two Justices of the Peace for the County of *Aberdeen* not locally interested in the Premises, upon due personal Inspection that such Road is no longer required for the public Use.

Lands may be taken, notwithstanding Errors in Book of Reference, &c.

XIV. That the Works by this Act authorized may be made in or through any Lands delineated on the deposited Plans, although such Lands, or the Situations thereof, or the Names of the Owners, Lessees, or Occupiers thereof, may happen to be omitted, mis-stated, or erroneously described in those Plans or the Books of Reference thereto, in case it shall appear to any Two or more Justices of the Peace for the County of *Aberdeen*, in Petty Sessions assembled, and be certified by Writing under their Hands, that such Omission, Mis-statement, or erroneous Description proceeded from Mistake; and the Certificate of those Justices shall be deposited with and remain in the Custody of the Sheriff Clerk for the Time being of that County.

Orchards, Gardens, &c. described in the Book of Reference may be taken.

XV. That nothing contained in the Act of the First and Second Years of His late Majesty King *William* the Fourth, incorporated herewith, shall prevent the Trustees from taking or using, for the Purposes of this Act, any Orchard or Garden, or any Policy, Lawn, Nursery for Trees, planted Walk or Avenue to a House, or any enclosed Ground planted as an Ornament or Shelter to a House, or planted and set apart as a Nursery for Trees, or any Part thereof respectively, which is delineated on the deposited Plans and described in the Books of Reference thereto, either with or without the Consent in Writing of the Owners or other Persons interested therein.

Trustees may pull down and use Materials of old Bridges, &c.

XVI. That if in the Construction of the Works by this Act authorized it shall be necessary or convenient to pull down or alter any Bridge, Archway, Culvert, or other Work now being upon, under, or across those respective Portions of the existing public Roads which after the passing of this Act will be managed, regulated, and repaired by the Trustees, the Trustees may, without paying anything for such Materials, use for the Purposes of this Act all such Materials as may be found in or arise from any such Bridge, Archway, Culverts, or other Works.

Period for Completion of Works.

XVII. That the Works by this Act authorized may be completed within Five Years from the Commencement of this Act; and on the Expiration of that Period the Powers by this Act given for executing the same shall cease to be exercised.

Period for compulsory Purchase of Lands limited.

XVIII. That the Powers of the Trustees for the compulsory Purchase of Lands for the Purposes of the Works by this Act authorized shall not be exercised after the Expiration of Three Years from the Commencement of this Act.

XIX. That

Tolls.

XIX. That the Trustees may cause to be erected Toll Gates across or on the Sides of any Part of the Roads, and such Number of Toll Houses as they shall think fit, and may authorize the Collectors or Tacksmen under their Authority to take and levy at each of the said Gates such Rates, Tolls, and Duties as they may from Time to Time direct, not exceeding the following Sums:

For every Horse or other Beast drawing any Coach, Chariot, Chaise, Berlin, Landau, Omnibus, Hearse, Litter, or other such like Carriage with Four Wheels, the Sum of One Shilling Sterling:

For every Horse or other Beast drawing any Curricle, Chaise, Gig, or other such like Carriage with Two Wheels, the Sum of Eightpence Sterling:

For every Horse or other Beast drawing any Carriage commonly called a Taxed Cart, the Sum of Sixpence Sterling:

For every Horse or other Beast drawing any Van, Caravan, Waggon, Wain, Cart, or other such like Carriage with Two Wheels, the Sum of Sixpence Sterling; and if with Four Wheels, the Sum of One Shilling Sterling; and if with Six Wheels, the Sum of One Shilling and Fourpence Sterling:

For every Horse or other Beast drawing any Stage Coach, Long Coach, Diligence, Omnibus, or other Stage Carriage licensed to carry or carrying Ten or more Persons, including the Coachman and Guard, the above Tolls and One Half more in addition thereto:

For every Coach, Chaise, Berlin, Chariot, Landau, Omnibus, Hearse, Litter, or other such Carriage, or any Stage Coach, Long Coach, Diligence, Omnibus, or other Stage Carriage drawn or propelled by Steam or otherwise than by Animal Power, when such Carriage and the Loading thereof taken together shall not exceed Twenty Hundredweight, the Sum of Two Shillings:

And for every Hundredweight which any or either of the last-mentioned Carriages, with the Loading thereof, shall weigh above Twenty Hundredweight and not exceeding Thirty Hundredweight, the Sum of One Penny:

And for every Hundredweight which such Carriage, with the Loading thereof, shall weigh above Thirty Hundredweight and not exceeding Forty Hundredweight, the additional Sum of Twopence:

And for every Hundredweight which such Carriage, with the Load thereof, shall weigh above Forty Hundredweight, the additional Sum of Threepence:

For every Van, Caravan, Waggon, Wain, Cart, or other such like Carriage, drawn or propelled by Steam or otherwise than by Animal Power, when such Carriage, and the Loading thereof, taken together, shall not exceed Twenty Hundredweight, One Shilling

Shilling Sterling; and with such additional Charges for Overweight, to be made on the same Scale and in the same Manner in all respects, as the Charges for Overweight herein provided with respect to any Coach, Chaise, Berlin, Chariot, or other such like Carriage:

For every Horse, Mare, Gelding, or Mule, with or without a Rider, laden or unladen, and not drawing, the Sum of Threepence:

For every Drove of Oxen, Neat Cattle, Horses, or Asses unshod, the Sum of Tenpence *per* Score, and so in proportion for any greater or less Number:

For every Drove of Calves, Hogs, Sheep, Lambs, or Goats, the Sum of Fivepence *per* Score, and so in proportion for any greater or less Number:

And which several Tolls and Duties aforesaid shall be accordingly levied and taken, except in so far as the same may have been or shall be diminished by the Trustees; so, nevertheless, that after Payment of the Amount of One full Toll, whether in One Payment or more, in respect of any such Horse, Beast, Animal, or Carriage, no further Toll shall be so levied or taken in respect of the same Horse, Beast, Animal, or Carriage until after it shall have passed Six Miles at the least in the same Direction upon the Road; and so, after Payment of any Second Amount of One full Toll, no further Toll shall be so taken or levied in respect of the same Horse, Beast, Animal, or Carriage until after it shall have passed the further Distance of Six Miles at least in the same Direction upon the Road, and so *toties quoties*.

As to the Fraction of a Halfpenny in Tolls.

XX. That in all Cases in which there shall be a fractional Part of a Penny less than a Halfpenny in the Amount of the Tolls by this Act authorized to be collected the Sum of One Halfpenny shall be taken in lieu of such fractional Part.

Limiting Number of Tolls to be taken.

XXI. That every Horse or Beast of Draught (if drawing, drawing the same Carriage, and if let for Hire, employed in or about the same Hiring,) and other Animal, and every Carriage drawn or propelled otherwise than by Animal Power, in respect whereof the Toll for the Time being payable at any Toll Gate shall have been paid, shall (upon a Ticket denoting the Payment thereof being produced) be permitted, in returning through the same Toll Gate, and in going and returning through each such Toll Gate (if any) as the Ticket for such Payment shall free, to pass Toll-free the same Day: Provided always, that nothing herein contained shall exempt from Payment of Toll on repassing any Horse or other Beast drawing any Stage Coach, Long Coach, Diligence, Omnibus, or other Stage Carriage, nor any such Carriage drawn or propelled otherwise than by Animal Power.

Tolls may be diminished on Waggons

XXII. That the Trustees may at any General Meeting diminish the Tolls, to such Extent as they shall think fit, on all Horses or Beasts of Draught

and Carts having broad Wheels.

Draught drawing, and on all Carriages drawn or propelled otherwise than by Animal Power, provided the Fellies of the Wheels of the Carriages drawn or propelled be of such Breadth and Construction as the Trustees may deem least calculated to injure the Roads; and the Trustees may, before granting such Diminution, establish such Regulations as they may think proper touching the Weight of the Loading which respectively such Horses or Beasts of Draught may be permitted to draw, and which such Carriages may be permitted to carry.

Regulating Drag Irons.

XXIII. That where any Drag Iron or other Instrument shall be affixed under the Bottom or Sole of the Wheel of any Carriage passing along the Roads, to make the Passage of such Carriage more safe down steep Hills, every such Drag Iron or other Instrument shall be flat at the Bottom or Sole thereof, and shall not be of less Breadth than the Fellies of the Wheels under which the same shall be affixed, on pain of the Owner or Person in charge of such Carriage forfeiting any Sum not exceeding Ten Shillings at every Toll Gate on the Roads through which such Carriage shall pass.

Penalty on giving Tickets to another Person.

XXIV. That for preventing Frauds and Abuses in regard to the Tolls, if any Person, having paid the Toll by this Act authorized to be taken, and having received a Ticket signifying the Payment of such Toll, shall give or dispose of that Ticket to any other Person than the Toll Collector authorized to receive it, every such Person so giving or disposing of such Ticket or receiving the same shall for every such Offence forfeit and pay any Sum not exceeding Twenty Shillings.

Penalty for obstructing Collectors of Tolls.

XXV. That if any Person shall assault or obstruct in the Execution of his Duty any Collector of the Tolls by this Act authorized to be taken, such Person shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings.

Power to borrow Money, and assign Tolls.

XXVI. That the Trustees may borrow and take up at Interest on the Credit of the Tolls authorized to be taken by this Act such Sum or Sums of Money as they shall from Time to Time respectively think proper, and assign the Tolls as a Security to any Person who shall advance such Sum or Sums of Money: Provided always, that the Amount of the Moneys so borrowed shall not exceed at any One Time the Sum of Sixteen thousand Pounds.

Application of Moneys borrowed.

XXVII. That all Moneys which shall come to the Hands of the Trustees by borrowing under the Provisions of this Act shall be applied as follows:

First, in discharging the Expenses of obtaining and passing this Act or incident thereto

Secondly,

Secondly, in making, altering, and improving the Roads by this Act authorized to be respectively made, altered, and improved, and in erecting Toll Houses, Toll Gates, and Bridges.

Application of Tolls.

XXVIII. That all Moneys arising from the Tolls by this Act authorized to be taken, which shall come to the Hands of the Trustees, shall be applied as follows:

Firstly, in defraying the necessary Expenses of Management, including Salaries of Officers and Collectors, Repair of Toll Houses and Toll Gates, and incidental Expenses, not exceeding (exclusive of Salaries of Toll Collectors, and the Expenses of prosecuting and defending Suits or Actions at Law or Indictments,) Sixty Pounds *per Annum*:

Secondly, in maintaining and repairing the Roads:

Thirdly, in paying Interest on all Principal Sums for the Time being due and owing on the Credit of the Tolls, at not exceeding the Rate of Four Pounds *per Centum per Annum*:

Fourthly, in reducing, paying off, and discharging all Principal Sums of Money which from Time to Time may be due and owing on the Credit of the Tolls:

Lastly, in maintaining, repairing, and improving the Roads.

Mortgagees not to take possession, except for Arrears of Interest.

XXIX. That whenever and so long as the Interest upon all Mortgages charged upon the Tolls arising on the Roads shall be duly paid within One Calendar Month next after the same shall become due, no Holder of any such Mortgage shall be entitled to enter into possession of any Toll Gate, Toll House, or Building upon the Roads, or into the Receipt of the Tolls arising thereon, or of the Rent payable upon the letting of such Tolls; and every Mortgagee entering into possession of any such Toll Gate, Toll House, or Building, or into the Receipt of such Tolls or Rents as aforesaid, shall pay the Interest from Time to Time becoming due on the said Mortgages, without any Priority or Preference, and may also reimburse himself all Costs to which he may be entitled; and every Mortgagee so in receipt or possession as aforesaid shall, within Twenty-one Days next after each of the half-yearly Days whereon the Interest on such Mortgages shall be payable, render to the Clerk to the Trustees for the Time being a full and true Account of his Receipts and Expenditure while so in possession or receipt as aforesaid, with proper Vouchers for the same; and if it shall appear by any such Account that the Interest due on all such Mortgages up to the last of such half-yearly Days, and all such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the Trustees, pay over to their Treasurer the Balance (if any) remaining in his Hands, and deliver up Possession of all Toll Gates, Toll Houses, and Buildings to the Trustees, or any Person appointed by them to receive the same, and

discontinue

discontinue the Receipt of the said Tolls and such Rent as aforesaid, anything in this Act, or in any Statute or Law in force relating to Turnpike Roads in *Scotland*, to the contrary notwithstanding.

Power for the Trustees to enter into Arrangements with Proprietors of the Lands of Balmoral.

XXX. That the Trustees may from Time to Time enter into Agreements and Obligations with the Proprietors or Heirs of Entail in possession for the Time being of the Lands of *Balmoral*, or any of them, or of any Lands adjoining or near to the intended Road fourthly herein described and authorized, for the making and the perpetual Management, Regulation, and Maintenance (with entire or Part Exoneration of the Trustees, as the Case may be,) of that Road, and the Works incidental thereto, in good and substantial Repair, Order, and Condition, by and at the Expense of the Proprietor or Heir of Entail in possession, or respective Proprietors or Heirs of Entail in possession, Party to such respective Agreements and Obligations; and the Expenses thereby respectively agreed and contracted to be borne shall thereafter be a perpetual Real Burden and Charge upon and shall issue out of the Lands of the respective Proprietors or Heirs of Entail in possession making such Agreement, and they respectively and the succeeding Heirs of Entail of the same Lands, shall also be personally bound thereby for the Payment of those Expenses.

Agreements to be in Writing, and to be recorded in Books of Council and Session.

XXXI. That every such Agreement and Obligation shall be in Writing, and shall within One Month after the Completion thereof be recorded in the Books of Council and Session, and shall have no Validity until so recorded.

Trustees not to take Tolls after Agreements are recorded.

XXXII. That after the making of any such Agreement or Obligation, and the recording thereof, it shall not be lawful for the Trustees or any other Party to levy or take any Tolls whatsoever on or in respect of the Use of the intended Road fourthly herein described, or its incidental Works, or, except so far as may be consistent with the Terms of such Agreement, to manage or interfere with such Road and Works, and the Public shall be entitled for ever thereafter to use the same Toll-free.

Power to shut up Portion of the South Dee Side Road.

XXXIII. And whereas that Part of the *South Dee Side* Road which lies between the proposed Terminus (near the Eastern Boundary of *Easter Balmoral*) of the intended Road fourthly herein described and the South End of the Stone Bridge over the River *Dee* called *Invercauld Bridge* is parallel in its Direction with the existing public Road between the same Points on the North Side of that River, and is little used as a Thoroughfare, and only used for local Purposes by the Proprietors of the Lands of *Balmoral* and *Invercauld*, through which Lands alone it passes: And whereas the Use of that Portion of the *South Dee Side* Road as a public Thoroughfare will, upon the

the Completion of the Road fourthly herein described, and of that Part of the Road thirdly herein described which lies East of the public Inn called the *Invercauld Arms* in the Parish of *Braemar*, be entirely superseded and rendered unnecessary, and the Continuance of it for public Use would lead to the Evasion of the Tolls hereby authorized to be taken: Therefore, from and after the Completion for public Use of the intended Road fourthly herein described and authorized, and of that Part of the Road thirdly herein described which lies East of the public Inn called the *Invercauld Arms* in the Parish of *Braemar*, and from and after the Execution of an Agreement or Obligation providing to the Satisfaction of the Trustees for the Expense of perpetually maintaining the intended Road fourthly herein described, by such Proprietor or respective Proprietors or Heir or Heirs of Entail, of or as a perpetual Real Burden or Chargeon such Lands, as herein-before in that Behalf mentioned, all that Portion of the *South Dee Side* Road which lies between the Point at which the Road fourthly herein described and authorized joins that *South Dee Side* Road at the House occupied by *James Smith* near the Eastern Boundary of *Easter Balmoral* in the Parish of *Crathie* and the South End of the Stone Bridge of *Dee* called *Invercauld Bridge* shall cease to be a public Road, and, with the Consent of the respective Proprietors or Heirs of Entail in possession of the Lands of *Balmoral* and *Invercauld*, may be closed against all Use for any Purpose whatsoever: Provided always, that the intended Road fourthly herein described and the Part of the intended Road thirdly herein described shall not respectively be held or deemed complete for public Use until after such Completion shall have been certified in Writing under the Hands of Two Justices of the Peace for the County of *Aberdeen* not interested in the Premises, upon due personal Inspection thereof respectively.

Power for the Trustees to enter into Agreements with the Commissioners of Highland Roads and Bridges.

XXXIV. That the Trustees and the Commissioners for the Time being acting in the Execution of the recited Acts of the Forty-third and Fifty-ninth Years of the Reign of His late Majesty King *George* the Third may from Time to Time enter into Agreements with each other for or relating to the Transfer of those Portions of Road forming Part of the intended Road thirdly herein described and authorized, which are now under the Management of those Commissioners, and as to the Expenses, Terms, and Conditions of managing and maintaining in future such Portions of Road; and every such Agreement shall be recorded in the Books of Council and Session, and shall be for ever thereafter binding upon the Parties thereto.

Power to make Arrangements

XXXV. That the Trustees, and the Trustees for the Time being acting in execution of an Act passed in the Fifth Year of Her present Majesty,

with the Trustees of the present Turnpike Road from Aberdeen by Banchory and Kincardine O'Neil to Aboyne. 5 & 6 Vict. c. xxxviii.

Majesty, intituled *An Act for more effectually maintaining and repairing certain Roads in the Counties of* Aberdeen, Banff, *and* Kincardine, *and for making certain new Roads in the said Counties, or some of them*, may respectively enter into and carry into effect Arrangements with respect to the Maintenance and Repair of the Roads respectively under the Control of the contracting Bodies or either of them, and with respect to the Amount, Collection, and Application of the Tolls arising thereon, the Number and Position of the Toll Gates and Tolls thereon respectively, the Exemption or partial Exemption from Toll of Traffic passing over the respective Roads or Parts of the respective Roads of the contracting Bodies, and all other Matters incident to the Management of the same Roads respectively.

Trustee or Clerk competent Witnesses in Actions.

XXXVI. That no Trustee or Clerk acting under the Authority of this Act, if not otherwise interested, shall be deemed incompetent to give Evidence, or shall be disqualified from giving Evidence, in any Action, Suit, or other Proceeding brought by or against him in such his Capacity of Trustee or Clerk, by reason of his being Pursuer or Defender in such Action, Suit, or Proceeding.

Roads not exempt from Provisions of General Acts.

XXXVII. That nothing herein contained shall be deemed to exempt the Roads comprised in this Act from the Provisions of any General Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament.

Commencement and Term of Act.

XXXVIII. That this Act shall commence on the Fourth *Wednesday* next after the passing thereof, and shall continue in force for the Term of Thirty-one Years, and thence to the End of the Session of Parliament which shall then next follow.

LONDON:
Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1855.