

# Roads and Bridges (Scotland) Act, 1878.

[41 & 42 VICT. CH. 51.]

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A.D. 1878.

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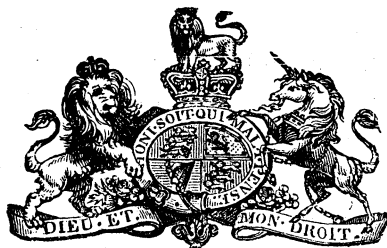
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## CHAPTER 51.

An Act to alter and amend the Law in regard to the Maintenance and Management of Roads and Bridges in Scotland. A.D. 1878.  
[8th August 1878.]

**B**E 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 Roads and Bridges (Scotland) Act, 1878, and, except in so far as otherwise expressly provided, it shall commence and take effect in each county (including the burghs wholly or partly within the same) from the date of its adoption therein, as herein-after provided for. Short title, and commencement of Act.

2. This Act shall apply to Scotland only, except in so far as otherwise expressly provided. Extent of Act.

3. In this Act the following words and expressions shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction : Interpretation.

“The Secretary of State” shall mean one of Her Majesty's Principal Secretaries of State :

“Sheriff” shall include sheriff-substitute :

“The trustees” shall mean the county road trustees appointed and acting under this Act :

“The board” shall mean the county road board appointed and acting under this Act :

“The district committee” shall mean the district road committee appointed and acting in any district under this Act :

“Clerk,” “treasurer,” “collector,” and “surveyor,” shall respectively mean the county road clerk, the county road treasurer, the county road collector, and the county road surveyor, appointed and acting for the time being under this Act :

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- A.D. 1878. — “County” shall mean (except where otherwise expressly provided) the county exclusive of any burgh wholly or partly situate therein, and shall not include a county of a city.
- 25 & 26 Vict. c. 101. “Burgh” shall mean and include royal burgh, parliamentary burgh, or any populous place the boundaries whereof have been fixed and ascertained under the provisions of the General Police and Improvement (Scotland) Act, 1862, or of the Act first therein recited, or have been determined by or under any local Act, provided that the population of such populous place, as the same may be ascertained as nearly as possible in the manner described in the seventh clause of the General Police and Improvement (Scotland) Act, 1862, within three months after this Act commencing to have effect therein, exceeds five thousand :
- 25 & 26 Vict. c. 101. “Police burgh” shall mean every such populous place, the population of which shall not have been ascertained in manner aforesaid to exceed five thousand :
- “Burgh local authority” or “local authority of any burgh” shall mean the town council, commissioners of police, or other local authority having the management and control of the streets, and the power to levy assessments in respect thereof, in any burgh, under or in virtue of any general or local Act or of this Act :
- “Parish” shall include united parish, but it shall be exclusive of any burgh or police burgh wholly or partly situated within a parish :
- “Turnpike road” shall include all roads and bridges forming part of any turnpike road trust and all bridges under the management of any separate bridge trust :
- “Statute labour” shall include moneys raised as the conversion of statute labour, or in lieu thereof, and bridge money :
- “Statute labour road” shall include all roads and bridges maintained by statute labour :
- 25 & 26 Vict. c. 105. “Highway” shall mean and include all existing turnpike roads, all existing statute labour roads, all roads maintained under the provisions of the Highland Roads and Bridges Act, 1862, and all bridges forming part of any highway, and all other roads when declared to be highways under the provisions of this Act, all public streets and roads within any burgh or police burgh not at the commencement of this Act vested in the local authority thereof, but shall not include any street or road so vested, or any street or road or bridge which any person is at the commencement of this Act bound to maintain at his own expense :
- “Bridge” shall include the accesses thereof, but shall not include any bridge which any person is, at the commencement of this Act, bound to maintain at his own expense :



“Tolls” shall include pontages; and also any sum payable in respect of any exemption from or relinquishment of tolls: A.D. 1878.

“Causeway-mail” shall include through customs and all exactions of whatever kind, and also any sum or duty payable or leviable in lieu or satisfaction thereof or in respect of any exemption therefrom, other than tolls or assessments, made or which may be made in respect of the use of or passage over the streets or roads within any burgh, but shall not include petty customs or any sum or duty as aforesaid except in so far as they are exacted payable or leviable in respect of goods, articles, things, or animals passing or carried through such burgh:

“Proprietor” and “lands and heritages” shall have the same meanings as are attached thereto respectively in the Act passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter ninety-one, intituled “An Act for the valuation of lands and heritages in Scotland;” and the expression “the valuation roll” shall mean the valuation roll in force for the time in any county or burgh, as the case may be, made up under the authority of the said Act, or any other Act relating to the valuation of lands and heritages in Scotland: 17 & 18 Vict.  
c. 91.

“Person” shall include corporation, incorporated company, commissioners, or trustees (not being county road trustees):

“Ratepayer” shall mean any person (not being a commissioner of supply) being of full age and not subject to any legal incapacity, whose name appears as proprietor, tenant, or occupier of lands and heritages entered on the valuation roll for the county as of the annual value of four pounds and upwards, or as joint proprietor, tenant, or occupier of lands and heritages entered on such roll of an annual value which, when divided by the number of such joint proprietors, tenants, or occupiers, yields a quotient of four pounds and upwards:

“Debt Commissioner” shall mean a Debt Commissioner appointed for the purposes of this Act:

“Local newspaper” shall mean any newspaper circulating in the county or burgh as the case may be:

Where in this Act notice is required to be given by “special advertisement,” such notice shall be published once in at least two local newspapers.

*Continuance of existing Local Acts.*

4. All Local Acts now in force for regulating, managing, making, maintaining, or repairing any turnpike road or statute labour road, Existing  
Local Acts to  
continue to

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1st June  
1883.

or other highway situated or partly situated in any county (including the burghs wholly or partly within the same) in which tolls and statute labour, or either thereof, have not been abolished, shall continue in force until the first day of June one thousand eight hundred and eighty-three, and no longer, unless in the meantime this Act shall be adopted, or tolls and statute labour shall be legally abolished, in such county.

From and after the time at which any such Act or Acts shall cease to be in force in any county (including as aforesaid), this Act shall, unless Parliament otherwise provides, commence to have effect therein.

Where any Act relates to a turnpike road which is situated in more than one county, notwithstanding that such Act has ceased, in terms of this Act, to be in force in one county in which such road is situated, it may nevertheless continue to be in force in the other county or counties in which such road is situated.

25 & 26 Vict.  
c. 105.

For the purposes of this Act the Highland Roads and Bridges Act, 1862, shall be deemed and taken to be a Local Act, except in so far as it relates to piers and quays.

Provided always, that nothing contained in this Act shall have the effect of continuing in force the provisions of the Act passed in the ninth and tenth years of the reign of Her present Majesty, intituled

9 & 10 Vict.  
c. ccxxvii.

“ An Act for repairing certain roads in the counties of Banff, Aberdeen, and Elgin,” after the end of the next session of Parliament.

Certain  
Local Acts  
continued  
till adoption  
of Act.

5. Where any Local Act in force in a county in which tolls and statute labour have been abolished or are not exigible is limited as to its endurance, such Act shall continue in force until this Act shall be adopted in such county.

*Adoption of the Act.*

How Act  
may be  
adopted in  
counties.

6. The following provisions shall have effect with regard to the adoption of this Act:

(1.) Case of  
counties  
which have  
obtained  
Private Acts.

(1.) In those counties in which tolls and statute labour have been abolished, or are not exigible, or power has been obtained to abolish them, or to arrange for their abolition, this Act may be adopted in place of the Local Act or Acts relating to roads, highways, and bridges therein in force in such county, on a resolution to that effect agreed to by not less than two thirds of the trustees under such Act or Acts present and voting at a meeting of the whole trustees of the county called by special advertisement on not less than thirty days notice, for the purpose of considering as to the adoption hereof; and the convener of any such county

as aforesaid, on a requisition to that effect, signed by any six of the said trustees, being presented to him, shall call a meeting of the said trustees, with a view to consider a resolution in favour of the adoption of this Act, and in the event of such resolution not being carried by the requisite majority as aforesaid, it shall not be lawful to call another meeting with a view to the adoption of this Act for one year thereafter.

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Upon the adoption of this Act in any such county any Local Act or Acts in force therein as aforesaid shall stand repealed.

- (2.) In any other county this Act may be adopted on a resolution to that effect agreed to by a majority of the commissioners of supply of such county present and voting at a meeting called by special advertisement for the purpose on not less than thirty days notice; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the commissioners of supply of such county, being presented to him, shall call a meeting of the commissioners of supply, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by a majority at such meeting as aforesaid, it shall not be lawful to call another meeting with a view to the adoption of this Act for one year thereafter:

(2.) Case of counties which have not obtained Private Acts.

Upon the adoption of this Act in any such county any Local Act or Acts in force therein relating to roads, highways, and bridges, shall stand repealed.

7. Where it shall happen that this Act has been adopted or is in force in any county, but has not been adopted or is not in force in the county or counties adjoining thereto, any obligation, right, privilege, or duty, in regard to the management and maintenance of and the debt affecting turnpike roads partly situated in two or more counties (including the burghs wholly or partly within the same), which, had this Act been adopted in the latter county or counties, would have fallen upon or belonged to the county road trustees or burgh local authority or authorities thereof, shall fall upon or belong to the commissioners of supply thereof, and in so far as consisting of or resulting in payments of money, such payments shall be a good charge upon and be defrayed out of, or may be borrowed upon the credit of the county general assessment of such county or counties: Provided always, that as soon as this Act shall have been adopted or be in force in such county or counties, the obligation, right, privilege, or duty before mentioned in so far as not already fulfilled, exercised,

Provision for case of one county adopting and another county not adopting Act.

A.D. 1878. or discharged, and especially any obligation to repay any sums which may have been borrowed as aforesaid, and interest thereon, so far as unpaid, shall be transferred from the said commissioners of supply to the county road trustees of the said county or counties, and local authority or authorities of the said burgh or burghs, as the case may be: Provided that, where necessary for giving effect to the provisions contained in this section, "county road trustees" or "trustees" or "board" shall be held to mean and include commissioners of supply; and "county road clerk" shall be held to mean and include clerk of supply.

Wherever in terms of this section any obligation falls upon the commissioners of supply of a county, the trustees of such road shall, after providing for the expense of managing and maintaining the same, pay over to such commissioners of supply the surplus of income accruing to them from the tolls which, subject to the provisions of this Act, may be exacted on such road; and the said trustees shall not be entitled to reduce the tolls exacted thereon without the consent of such commissioners of supply.

Act may be adopted subject to provisional agreement between county and burgh. Confirmation by Secretary of State.

8. It shall be lawful for the commissioners of supply of any county which has not abolished tolls, on a resolution to that effect agreed to by a majority of those present and voting at a meeting called by special advertisement on not less than thirty days notice, to resolve to adopt this Act, subject to the stipulations contained in a provisional agreement entered into between them and the local authority of any burgh or burghs situated wholly or partly within such county, and signed by the convener and clerk of supply of such county, and by the provost or chief magistrate and town clerk or clerk of such burgh or burghs, as duly authorised in that behalf, in regard to the debts affecting and the cost and manner of managing and maintaining any highway or highways in the neighbourhood of such burgh or burghs; but in the event of a resolution being passed, subject to such stipulations, such resolution and agreement shall not take effect until the same shall have been approved of by the Secretary of State, after such inquiry as to him shall seem proper. Such approval may be signified under the hand and seal of office of such Secretary of State, and the writing signifying the same shall set forth a date, not being earlier than the first day of June then next ensuing, from and after which such approval shall take effect. From and after the date set forth in such writing, the provisional agreement shall become a final agreement, and after being recorded in the books of council and session shall have the same effect as if it were herein contained, and the provisions of this Act shall be read and construed subject to the stipulations of such agreement.

9. At any time after the passing of this Act, if the Act shall not have been adopted in any county, it shall be lawful for the commissioners of supply thereof to apply to the Secretary of State to make a provisional order that the Act shall, from a date to be therein named, not being earlier than the first day of June then next ensuing, come into force in such county, subject to conditions contained in such order in regard to the debts affecting and the cost and manner of managing and maintaining any highway or highways in the neighbourhood of any burgh or burghs within or partly within such county.

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Power to  
apply to  
Secretary of  
State for  
provisional  
order to be  
confirmed by  
Parliament.

Upon the receipt of any such application, such Secretary of State shall cause notice thereof to be given to the clerk of any burgh and to any other person, body, or corporation who shall appear to be affected thereby, and shall direct a local inquiry to be held in respect of the matters mentioned in the petition, after giving fourteen days notice of the time, place, and subject of the inquiry.

After receiving the report made upon such inquiry, such Secretary of State may issue a provisional order under his hand and seal of office in relation to the matters mentioned in the application, either in accordance with the prayer thereof, or with such modifications or alterations as may appear to him to be requisite.

A provisional order made in pursuance of this section shall not be of any validity until and unless it has been confirmed by Act of Parliament; and it shall be lawful for such Secretary of State as soon as conveniently may be to obtain such confirmation; and the Act confirming such provisional order shall be deemed to be a Public General Act of Parliament, and is hereafter referred to as the confirming Act. From and after the passing of such confirming Act, this Act shall commence to have effect in such county as if it had been adopted therein as herein-before provided, but subject to the provisions of the confirming Act, which shall have effect as if they were herein contained.

It shall be lawful for such Secretary of State to make such order as he thinks fit in reference to the reasonable costs, charges, and expenses properly incurred in opposing such provisional order.

All costs, charges, and expenses incurred by such Secretary of State in relation to any provisional order under this Act, to such amount as such Secretary of State thinks proper to direct, and all costs, charges, and expenses of promoting or opposing such provisional order, but not including the costs incurred in promoting or opposing any Bill confirming such order before a committee of either House of Parliament as after mentioned, to such amount as may be allowed by such Secretary of State, shall be a charge against the county road trustees if a confirming Act is obtained

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A.D. 1878. as aforesaid, and shall be a charge against the county general assessment if such Act is not obtained, or against the police assessment levied within any burgh as the case may be, and shall be paid accordingly to such Secretary of State and to such opponents respectively, in such manner and at such times, and either in one sum or by instalments, as such Secretary of State may order, with power to such Secretary of State to direct interest to be paid at such rate not exceeding five pounds in the hundred by the year as such Secretary of State may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

The Court of Session may, on the application of the Lord Advocate on behalf of such Secretary of State, or on the application of any person interested, interpose their authority to any order made by such Secretary of State under this section, and grant decree conform thereto, upon which execution and diligence may proceed in common form.

Costs to be awarded in certain cases.

**10.** When any Bill for confirming a provisional order under the preceding section is referred to a Committee of either House of Parliament upon the petition of any person opposing such Bill, the committee shall take into consideration the circumstances under which such opposition was made to the Bill, and whether such opposition was or was not justified by such circumstances, and may award costs accordingly, to be paid by the promoters or the opponents to the Bill, as the committee may think just; and the committee shall find and determine against what funds or persons such costs shall be chargeable.

28 & 29 Vict. c. 27.

Any costs under this section may be taxed and recovered under the Act passed in the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven.

*Road Authorities in Counties and Burghs.*

Management and maintenance of highways in counties to be in county road trustees, and in burghs in burgh local authority.

**11.** From and after the commencement of this Act in each county the management and maintenance of the highways and bridges within the county shall, as herein-after particularly provided, be vested in and incumbent on the county road trustees herein-after mentioned, and the management and maintenance of the highways and bridges within each burgh situated in or partly situated in such county shall be vested in and incumbent on the burgh local authority as herein-before defined.

*Appointment of County Road Trustees, Board, and Committees.*

Appointment of county road trustees.

**12.** From and after the commencement of this Act the following persons shall be the "County Road Trustees;" viz.,

- (1.) All persons being commissioners of supply of the county, whose names appear as such on the list of commissioners of supply of the county for the time being in force made up under the Act passed in the nineteenth and twentieth years of the reign of Her present Majesty, chapter ninety-three, and the Act passed in the twentieth year of said reign, chapter eleven (a certified copy of which list the clerk of supply shall deliver free of charge to the county road clerk, as soon as the latter is appointed, and thereafter in the month of January in each year) but subject to the provision that no commissioner of supply, whose qualification as such arises from property situated or office held in any burgh, shall be a county road trustee (save as herein-after provided), and that no factor deriving his qualification from the said Act, passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter ninety-one, whose name appears on such list shall be entitled to act or vote, except in the absence of the proprietor :
- (2.) One person appointed at pleasure by any writing under the seal, or under the hand of the secretary or other officer, of any corporation or incorporated company assessed as owners for the purposes of this Act upon an annual valuation of eight hundred pounds or upwards, as appearing from the valuation roll of the county :
- (3.) The following persons (herein-after called elected trustees), to be elected once in every three years, as herein-after provided, by the ratepayers under this Act from among their own number, in each parish wholly or partly situated in the county ; (that is to say,)
- (a.) Where the number of ratepayers does not exceed five hundred, two persons ;
  - (b.) Where the number of ratepayers exceeds five hundred but does not exceed one thousand, three persons ;
  - (c.) Where the number of ratepayers exceeds one thousand, four persons :
- (4.) Two persons (who shall be deemed to be elected trustees) appointed from time to time from among their own number by the commissioners of police of any police burgh as herein-before defined, within or partly within the county :  
Provided, that where the management and maintenance of the highways within any burgh shall have been, as herein-after provided,

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19 & 20 Vict.  
c. 93.

20 Vict. c. 11.

17 & 18 Vict.  
c. 91.

A.D. 1878. transferred to the county road trustees, the provost or chief magistrate and one member of the town council of any such burgh being a royal or parliamentary burgh, and the senior or chief magistrate and one of the commissioners of police of any other burgh, shall be county road trustees under this Act, and shall be deemed to be elected trustees.

Mode of  
election by  
ratepayers.

**13.** Within six weeks after the commencement of this Act, the ratepayers of each parish within the county entitled to elect trustees for the purposes of this Act shall meet, and elect by open vote two or more persons of their own number, as the case may be, to be such trustees, who shall continue in office for the three years succeeding such election or until their successors shall be appointed, and the convener of the county shall call the meeting for such election, in such convenient place in each parish as he may appoint, on not less than ten days notice given by special advertisement; and once in every three years thereafter the said ratepayers shall meet for the same purpose, and shall on the like notice be called and convened by the county road clerk; and at every such subsequent meeting two or more persons as aforesaid shall be elected as trustees for the purposes of this Act for the three years succeeding their election, or until their successors shall be appointed: Provided that the chairman of any such meeting shall immediately transmit to the convener of the county in the case of the first election under this Act, and at subsequent elections to the county road clerk a certificate under his hand, setting forth the name and designation of the persons elected, and such certificate shall be sufficient evidence of their election.

The ratepayer present having the largest valuation in the parish, as appearing from the valuation roll, shall be entitled to take the chair at any meeting for the election of trustees; and the valuation roll, which the inspector of poor of the parish shall be bound to produce at any such meeting, shall be evidence of the right of any ratepayer whose name appears therein to vote at such meeting: Provided that no commissioner of supply shall be entitled to vote at such meeting, and that no person shall be entitled to vote thereat in respect of any lands and heritages within a burgh or police burgh wholly or partly situated in such parish.

If there shall be an equality of votes for two or more persons, the candidate or candidates being the largest ratepayer or ratepayers shall be deemed to be elected.

Any question as to the number of trustees falling to be elected for any parish, or as to the election of any person as a trustee, may be disposed of summarily by the sheriff, whose decision shall be final.



Should the ratepayers fail to elect trustees at the first meeting called by the convener, or at any subsequent meeting called by the county road clerk, the convener or county road clerk, as the case may be, shall convene another meeting within six weeks for the purpose of electing trustees as herein provided.

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14. The trustees shall be a body corporate, under the name of the County Road Trustees of the county, as the case may be, and under that name they may sue and be sued, purchase, take, hold, and dispose of lands and other property for the purposes and subject to the provisions of this Act.

Trustees designated and incorporated.

15. The trustees shall at their first general meeting hereinafter mentioned, and thereafter at each annual general meeting, appoint the "county road board," consisting of not more than thirty of the trustees, and not less than one third and not more than one half of the board shall be elected trustees, and the chairman of the trustees shall be over and above ex officio a member of the board and chairman thereof; and the board shall have and may exercise all the powers, rights, and privileges conferred on the trustees by this Act, except the power of making an assessment, or in so far as the trustees shall otherwise expressly provide, but shall be subject in all respects to any requisitions, orders, regulations, or instructions which may from time to time be issued by the trustees.

Appointment of county road board.

16. The trustees shall divide the county into districts for the purpose of managing the highways under their control, and for any other purposes under this Act, and shall define the limits and boundaries of such districts, and may from time to time alter such limits and boundaries, and they shall annually appoint for each district such of the trustees as they think fit, but being as far as may be persons deriving their qualifications as trustees from lands within such district, to be a district committee (of whom one, being, except as herein-after otherwise expressly provided, a member of the county road board, shall be declared to be chairman); and not less than one third and not more than one half of the district committee so appointed shall consist of elected trustees representing parishes or burghs or police burghs within the district, as herein-before provided. The enactments contained in this section shall not be imperative in the case of a county containing fewer than six parishes, or in the case of a county in which at the commencement of this Act tolls and statute labour have been abolished or are not exigible, but no provision has been made that

County to be divided into districts, and district committees appointed.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. such county shall be divided into districts for the purposes of the local Act or Acts in force therein.

Appeal to  
Secretary of  
State as to  
formation of  
districts.

**17.** Any commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (as appearing in the valuation roll) not less than one fourth of the total annual value (so appearing) of the lands and heritages in any such district, may appeal against any such division, definition, or alteration to the Secretary of State, who shall have power, by a writing under his hand and seal of office, which shall be published in the Edinburgh Gazette, and recorded in the Sheriff Court books of the county, after such inquiry as to him shall seem proper, to alter and define the limits and boundaries of the districts into which the county shall be divided, as he may consider expedient; and any such alteration and definition or determination by the Secretary of State shall remain in force for ten years, and thereafter until the same shall be altered by the Secretary of State upon the application of the trustees, or some commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (appearing as aforesaid) not less than one fourth of the total annual value (so appearing) of the lands and heritages in any existing district, which alteration the Secretary of State shall have power to make in manner aforesaid.

Islands to be  
districts.

**18.** Provided always, that in every case where at the passing of this Act any island or group of islands or part of an island forms or is treated as a separate district as respects the management of highways, such district shall in all time after the commencement of this Act in the county of which such district forms part continue to form a separate district (herein-after called an insular district) for the purposes of this Act; and the highways in such district shall, after such commencement, be maintained and managed by a district committee, to be appointed by the county road board of such county, and consisting as far as may be of persons deriving their qualification as trustees from lands situated within such district, and such board shall nominate one of the members of such district committee, although not a member of the board, to be chairman of the district committee; and all assessments levied under the powers of this Act within such district for the management, maintenance, and repair of highways shall be expended in carrying into effect those purposes of this Act within such district, and in payment of a reasonable share of the necessary general expenditure incurred in such county

in the execution of this Act and not otherwise, and no part of such assessment levied within the remaining parts of such county shall be expended for the management, maintenance, and repair of high-ways within such district. A.D. 1878.  
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**19.** If any elected trustee for any parish shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or shall refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a ratepayer of the same parish, to supply his place. If any member of the board or of a district committee, or the chairman of a district committee, shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees) or shall refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a commissioner of supply or an elected trustee, as the case may be, and subject to the provisions herein-before contained as to the constitution of the board and the district committees respectively, to supply his place, and the person so appointed shall remain in office only so long as the person in whose room he was appointed might have held office. Occasional vacancies to be supplied.

**20.** If the town council of any royal or parliamentary burgh, or the commissioners of police of any other burgh or of any police burgh, or the ratepayers of any parish, or any corporation or incorporated company as herein-before mentioned, shall fail to elect or appoint trustees for the purposes of this Act, or if any person elected by such town council or commissioners of police or ratepayers, or appointed by such corporation or incorporated company, to be a trustee, or any other trustee, shall refuse to act, or shall resign, die, or become disqualified, the acts and proceedings of the remaining trustees, whether acting as trustees or as members of the board or of a district committee, as herein-after provided, shall nevertheless be deemed to be the acts and proceedings of the trustees, board, or district committee, as the case may be, and shall be as valid and effectual as they would have been if such failure, refusal, resignation, death, or disqualification had not occurred. Failure to elect not to invalidate acts of trustees.

*Meetings of Trustees, Board, and Committee.*

**21.** The first general meeting of the trustees shall be called by the convener of the county by special advertisement, and shall be held not later than three months after the commencement of this Act, at such time and place as the said convener shall appoint, and another general meeting of the said trustees shall be held on the thirtieth day of April immediately following or on such other day as Time and place of general meetings of the trustees.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. may be resolved on at the first general meeting of the trustees, and at such place as the said trustees may appoint; and thereafter an annual general meeting of the trustees shall be held on the twenty-ninth day of September in each year, or on such other day as may be resolved on at any general meeting of the trustees, and at such place as the trustees may from time to time appoint; and at the said first general meeting, and at every annual general meeting, the trustees present shall elect one of their own number to be chairman of the trustees, and in the event of an equal number of votes being given for two or more candidates, the candidate having or representing the largest valuation in the county, as appearing on the valuation roll, shall be held to be elected; and such chairman shall hold office until the annual general meeting succeeding his appointment, or until his successor is appointed, and may be re-elected on the expiration of his first or other period of office; and the chairman shall, when present, preside at all meetings of the trustees.

Meetings of board and district committees.

**22.** The time and place of the first meeting of the board shall be fixed by the trustees, and the time and place of any subsequent meeting may be fixed by the board itself; and the time and place of the first meeting of each district committee shall be fixed by the board, and the time and place of the subsequent meetings may be fixed by such district committee, without prejudice to the right of adjournment or of holding special meetings herein-after provided.

Quorum at meetings of trustees, board, and committee.

**23.** The trustees shall at their first meeting determine what number of trustees shall be requisite to constitute a quorum at meetings of the trustees and of the board, and of the several district committees, respectively; and it shall be in the power of the trustees to alter such quorum from time to time as they may think fit; but no such alteration shall take effect until after the expiration of three months from the date of its being made and, in the case of a district committee, of its being communicated in writing by the county road clerk to the chairman thereof.

*General Regulations for conducting the Business of Meetings.*

Regulations as to meetings and proceedings of trustees, board, and district committees.

**24.** The following provisions shall be applicable to the meetings and proceedings of the trustees, the board, and the district committees respectively :

- (1.) Special meetings of the trustees or of the board may be called by the chairman, or in the event of his illness, death, resignation, or absence from the county, by the clerk, at any time he may think fit, by special advertise-

ment or by circular sent through the post to each trustee or member of the board, stating the object of such meeting; and on a requisition stating the object of such special meeting, and signed by five trustees in the case of a special meeting of the trustees, and by three members of the board in the case of a special meeting of the board, being presented to the chairman, or in the event of his illness, death, or resignation, or absence from the county, to the clerk, the chairman or clerk, as the case may be, shall call a meeting of the trustees or of the board, as the case may be, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting, and the place and date of such meeting: Provided, that no special meeting of the trustees or board shall be called on less than ten days notice:

- (2.) Special meetings of any district committee may be called at any time by the district clerk, on the orders of the chairman or any two members of the committee, by circular stating the object of such meeting, and the place and date of such meeting, addressed to each member of the committee, and forwarded by post not less than six days before such meeting:
- (3.) Any meeting, general or special, of the trustees, or of the board or district committee, may be adjourned to a time and place to be specified in the minutes of such meeting; and in the event of a quorum not being present at any general or special or adjourned meeting the clerk of the meeting shall, in the case of meetings of the trustees or of the board, by special advertisement or circular, and in the case of district committees by circular, as herein-before provided, call another meeting, to be held at the hour and place and on any day, not being less than ten or six days after the date of the special advertisement or circular, as the case may be, within three weeks after the day originally fixed for such meeting:
- (4.) Any business appointed by this Act to be transacted, and any assessment by this Act authorised to be imposed at any general or special meeting of the trustees or the board or any district committee, may be transacted or imposed at any adjourned meeting thereof; provided, that no business shall be brought before or transacted at such adjourned meeting which was not brought or appointed to be brought before the original meeting which was so adjourned:

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- (5.) No motion in regard to any matter or business not mentioned in the advertisement or special advertisement or circular calling any meeting shall be competent, unless notice of the same had been given at the immediately preceding meeting (not being a special or adjourned meeting) or by circular sent through the post not less than eight days before the meeting and addressed to every person entitled to be present and vote thereat :
- (6.) Where the business before any meeting relates to the valuation, or allocation, or payment of debts, or the interest thereof, or the mode of providing therefor, or the construction of new roads or bridges, the assessments to provide for the payment or cost of which are by this Act laid on proprietors only, no elected trustee shall be entitled to vote in regard thereto, or in regard to such assessments :
- (7.) No person shall have more than one vote at any meeting under this Act, although he may have more than one qualification for voting, except as herein-after provided in the case of the chairman or preses of any meeting :
- (8.) The board or any district committee may appoint a committee or committees of their own number for the better execution of the powers hereby granted to them, and such committee shall report their proceedings to the board or district committee appointing them, and every act, order, or thing which shall be done, ordered, or performed by such committees, on being approved of by the board or district committee, shall be equally valid and sufficient as if ordered, done, or performed by the board or district committee.

Chairman to be elected in absence of ordinary chairman.

**25.** In the absence of the chairman at any meeting of the trustees or of the board or of any district committee, any person elected by the majority of the trustees or members present at such meeting, shall preside thereat; and in case of an equality of votes the trustee or member present and proposed as chairman having or representing the largest valuation in the county or district, as the case may be, and as shown by the valuation roll, shall preside at such meeting, and in all other cases of equality of votes the chairman shall have a casting as well as a deliberative vote.

District committees and board to make reports.

**26.** Each district committee shall annually make a report of their proceedings to the board, with detailed accounts of their receipts and expenditure, and shall make reports on such other matters at such times and in such manner as may be prescribed by

the trustees or the board; and the board shall before each annual general meeting of the trustees make a report of their proceedings to the trustees, with detailed accounts of their receipts and expenditure (if any), and shall make reports at such other times on such matters as may be prescribed by the trustees; and along with such annual report the board shall lay before the trustees the reports and accounts of the district committees respectively.

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**27.** Any person who shall object to or think himself aggrieved by the decision or resolution of any district committee may appeal, at any time within one month after such decision or resolution, to the board, whose determination therein shall be final; provided, that such appeal shall not prevent the execution of any of the powers of this Act in any matter affecting any other person not being a party in such appeal.

Appeal from  
decision of  
district  
committee.

*Appointment of Officers.*

**28.** The trustees shall appoint a clerk, who shall also be clerk to the board, and shall be called the "county road clerk," a treasurer, who shall be called the "county road treasurer," and a collector, who shall be called the "county road collector," and, if they shall think fit, a surveyor who shall be called the "county road surveyor," and, if it shall be found expedient, may appoint more persons than one to execute any of the above-named offices, or may appoint one person to execute two or more of them, and may also appoint such other officers and servants as they may think necessary for carrying this Act into execution; and such officers and servants shall perform the duties from time to time prescribed by the trustees or the board, and shall be subject to removal at any time by the trustees or the board, unless in so far as the power of removal may be modified by special written agreement, which shall not endure for a longer period than five years, and shall find such security as the trustees or the board shall require.

Appointment  
of county  
officers.

**29.** Each district committee may from time to time appoint a district clerk and a district treasurer, and, with the consent of the trustees, a district collector (it being competent to appoint one person to hold more than one of such offices) and a district road surveyor, and prescribe their or his duties; and, subject to the approval of the trustees, the district committee may fix the salaries to be paid to and the security to be taken from such district clerk, district treasurer, district collector, and district road surveyor, for the discharge of their or his duties, where such security is required to be taken; and every such officer shall be subject to removal at

Appointment  
of district  
officers.

A.D. 1878. any time by the district committee : Provided that it shall be competent for any district committee to appoint to any one or more of such offices any of the officers appointed by the trustees or the board or by another district committee. Every district road surveyor shall be subject to the reasonable orders of the county road surveyor, if one shall be appointed.

Salaries of county road officials.  
Allocation of general expenditure.

**30.** Subject to the approval of the trustees the board shall fix the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and the board ; and such salaries and allowances, and all other necessary general expenditure in the execution of this Act, shall be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees shall from time to time fix and determine.

Former officers to continue till removed.

**31.** The clerks, treasurers, surveyors, collectors, and all other officers who have been appointed under and employed in the execution of any local Act in force at the commencement of this Act relating to the roads, highways, and bridges within the county, (including the burghs wholly or partly situated therein) shall respectively continue to hold and exercise their offices thereafter until they shall respectively be removed by the trustees or board or burgh local authority, as the case may be, or shall resign or be incapable of executing their offices, and shall be subject to the like rules, regulations, and penalties in all respects as if they had been appointed under the authority of this Act ; and it is hereby provided that the trustees under such local Acts, or the trustees and burgh local authority respectively, shall have a discretionary power to grant to any of the officers before mentioned, or to any of the officers appointed under this Act, such superannuation allowance, or other compensation, in the event of and to take effect on their immediate or subsequent retirement or removal from their respective offices, as they shall deem fit : Provided always, that any such grant made by the trustees under any such local Act may be reduced or rescinded by the county road board of the county, out of the assessments leviable within which such allowance or compensation is payable, if such board shall consider the same excessive or improper, and that if any officer to whom any such allowance or compensation shall have been so granted shall hold office under the trustees, board, or any district committee of such county, the amount of such allowance or compensation shall be deducted from the salary payable to him by such trustees, board, or district committee, so long as he shall continue to hold such office.



*General Management in Counties and Burghs.*

A.D. 1878.

**32.** From and after the commencement of this Act, the whole turnpike roads, statute labour roads, highways, and bridges within each county respectively shall form one general trust, with such separate district management as shall be prescribed by the trustees as herein-before provided; and all the roads, bridges, lands, buildings, works, rights, interests, moneys, property, and effects, rights of action, claims and demands, powers, immunities, and privileges whatever, except as herein-after provided, vested in or belonging to the trustees of any such turnpike roads, statute labour roads, highways, and bridges within the county, shall be by virtue of this Act transferred to and vested in the county road trustees appointed under this Act, who, subject to the qualifications herein-after expressed, shall be liable in all the debts, liabilities, claims, and demands in which the trustees of such turnpike roads, statute labour roads, highways, and bridges are or were liable under any general or local Act then in force, except in so far as such debts, liabilities, claims, and demands may under the provisions of this Act be discharged, reduced, or extinguished.

Consolidation of trusts.

**33.** From and after the fifteenth day of May, or from and after the twenty-sixth day of May when the leases of the tolls in any county run from that date, immediately following the commencement of this Act in any county in Scotland, where such commencement shall happen before the year one thousand eight hundred and eighty-three, and otherwise from and after the first day of June one thousand eight hundred and eighty-three, all tolls within such county, and within any burgh wholly or partly situated therein, shall be abolished, and the exaction of statute labour, and any payments of money by way of conversion or in lieu thereof, and all bridge money and assessments heretofore leviable for the maintenance of highways within such county or burgh, shall cease and determine, any Act or Acts to the contrary notwithstanding; and all turnpike roads within the same shall thereafter be and become highways, and all highways shall be open to the public free of tolls and other exactions, except as herein-after provided, within the meaning of and for the purposes of this Act: Provided always, that all the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, with respect to turnpike roads shall continue applicable to all highways which are turnpike roads at the passing of this Act.

Abolition of tolls, statute labour, causeway mail, &c.

8 & 9 Vict. c. 33.

All causeway mail shall be abolished within any burgh from and after the fifteenth day of May first occurring not less than four

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. — years after the commencement of this Act in the county within which such burgh is situated or partly situated.

Notwithstanding that the other provisions of this Act shall not be in force in any county (including the burghs wholly or partly situated therein), all causeway mail within such burghs shall be abolished from and after the fifteenth day of May one thousand eight hundred and eighty-seven.

Rate may be levied within burghs in lieu of causeway mail abolished.

**34.** It shall be lawful for the magistrates and council of any burgh in which causeway mail by this Act provided to be abolished is payable or leviable, to levy from and after such abolition from the occupiers of lands and heritages within such burgh, in lieu of such causeway mail payable or leviable as aforesaid, a rate or rates by way of assessment calculated to yield in the whole in the year an amount equal to the net yearly amount of such causeway mail payable or leviable as aforesaid, and no more, but not exceeding in the whole for any one year the amount of threepence in the pound sterling, on the valuation of the assessable property within the boundaries of such burgh, and such rate may be levied either as a separate rate or as part of and in addition to, but always under the same conditions, and subject to the same restrictions and exemptions as any police or burgh rate levied or leviable within such burgh: Provided that the rate or rates to be levied in lieu of such causeway mail payable or leviable as aforesaid, shall, ipso facto, come in place of any security held by any creditor or creditors of such burgh over such causeway mail:

Provided also, that the said magistrates and council shall not be bound under this section to impose any rate other than a rate of one farthing or an entire number of farthings in the pound.

Application of tolls and statute labour money at present leviable.

**35.** Until the said fifteenth day of May, or twenty-sixth day of May, or first day of June, as the case may be, the tolls and revenues of each of the roads now maintained as turnpike roads, and all assessments now leviable for the maintenance of highways within a county shall respectively be received and applied by the trustees to the several purposes to which they are respectively applicable under the existing Acts relating thereto.

Trustees to purchase pontages, &c.

**36.** The trustees of any county or counties, and the local authority of any burgh or burghs, shall, as soon as may be after the commencement of this Act in such county or in any of such counties, adjust and settle with the persons or trustees having the management of any bridge or bridges, forming part of or connecting any highways, whether situated wholly in one county or burgh or not, at which pontages are legally leviable by any persons or trustees,

or the magistrates and town council of any burgh, what compensation shall be paid to him or them in respect of his or their patrimonial interest in such pontages abolished by this Act; and if they and such person or trustees, or magistrates and town council, cannot agree as to the compensation to be made for the said pontages, then the same shall be fixed and determined, as nearly as may be, in the same manner as is herein-after provided in relation to the valuation of road debts, and shall be paid and provided for in the same manner as road debts: Provided that where such bridge or bridges is or are not situated wholly within one county or burgh, the sums payable under this section shall be allocated in the same manner as is herein-after provided in relation to the allocation of road debts; and such bridge or bridges shall, after the compensation aforesaid has been fixed and determined, be highways free of pontages, and be vested, managed, and maintained as such, and where not situated wholly in one county or burgh, shall be subject to the provisions herein contained with regard to bridges similarly situated belonging to turnpike trusts at the commencement of this Act. For the purposes of this section "trustees" shall include the commissioners of supply of a county in which this Act has not been adopted or is not in force.

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**37.** Where any trust existing at the commencement of this Act embraces a turnpike road which is not situated wholly within one county or burgh the following provisions shall have effect; (that is to say,)

Roads formerly turnpike not wholly situated in one county or burgh.

(1.) Where this Act shall have been adopted or shall be in force in each of the counties in which such road is situated:

(a.) The portion of such road within each such county or any burgh therein shall be vested in and managed and maintained by the trustees, board, and district committees of the county, or the local authority of the burgh, as the case may be, in which such portion is situated:

(b.) The whole assets of the trust shall, except as herein otherwise provided, be valued and allocated among the trustees of the counties and local authorities of the burghs respectively in the proportion and in the manner in which the debt affecting such turnpike trust shall be valued and allocated among the trustees of such counties and

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the local authorities of such burghs respectively under the provisions of this Act :

- (c.) All lands, heritages, works, and buildings belonging to any such trust locally situated within any county or burgh shall be and are hereby transferred to the trustees of such county or local authority of such burgh, as the case may be, within which the same are so situated, and shall be applied and used or may be sold and disposed of under the powers and for the purposes of this Act :
- (d.) Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be a charge equally against the trustees of the county or counties and local authority or authorities of the burgh or burghs within which it is partly situated. The management of the bridge shall, failing agreement, be vested in a committee (herein-after called a joint bridge committee) to be appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding :
- (2.) Where this Act shall have been adopted or shall be in force in one or more of the counties or burghs in which such road is situated, but shall not have been adopted or shall not be in force in all of such counties or burghs :
  - (e.) The portion of such road within any county or burgh in which this Act has been adopted or is in force shall be vested in and managed and maintained by the trustees, board, and district committees of the county or the local authority of the burgh, as the case may be, in which such portion is situated :
  - (f.) The portion of such road within any county or burgh in which this Act has not been adopted or is not in force shall continue to be vested in and managed and maintained by the trustees having the management thereof at the commencement of this Act :
  - (g.) The whole assets of the trust shall, except as herein otherwise provided, be valued and allocated among the trustees of the respective counties and local authorities of the burghs situated therein and the trustees having the management of such road, as

nearly as may be, in the proportion and in the manner in which debts affecting turnpike trusts shall be valued and allocated among the trustees of counties and local authorities of burghs respectively under the provisions of this Act :

- (h.) All lands, heritages, works, and buildings belonging to the trust locally situated within any county or burgh shall be and are hereby transferred to the trustees of such county or local authority of such burgh within which the same are so situated or the trustees having the management of such road, as the case may be, and shall be applied and used or may be sold and disposed of under the powers and for the purposes of this Act or of the Act under which the trustees having the management of such road were constituted, as the case may be :
- (i.) Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be a charge equally against the trustees of the county or local authority of the burgh within which it is partly situated and the trustees having the management of such road, as the case may be. The management of the bridge shall, failing agreement, be vested in a joint bridge committee to be appointed by the trustees (whether appointed and acting under this Act or not), or local authorities chargeable with the cost of maintenance and rebuilding.

**38.** Where a bridge, not at the commencement of this Act included in a turnpike road trust, is not situated wholly within one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be deemed to rest equally upon the trustees (whether acting under this Act or not) and local authority or authorities of the counties, or county and burgh, or burghs within which such bridge is partly situated, as the case may be.

Bridge (not formerly turnpike) not wholly situated in one county or burgh.

The management of such bridge shall, failing agreement, be vested in a joint bridge committee appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding, unless, on an application of either party to the sheriff, he shall otherwise determine.

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Appointment  
and powers  
of joint  
bridge com-  
mittee.

**39.** The following provisions shall have effect as to the appointment, powers, and duties of a joint bridge committee :

- (1.) A joint bridge committee shall be appointed annually at such date as may be agreed on between the road authorities appointing representatives thereon, and each road authority may appoint not more than five persons to be members of such committee ;
- (2.) A joint bridge committee shall have power to appoint a chairman, and to appoint and remunerate such officers as shall be necessary for the management of the bridge, such officers, as far as possible, being already officers of the road authorities by whom the committee is appointed ;
- (3.) In the event of difference of opinion, the representatives of each road authority shall jointly have one vote, and if there is an equality of votes, the question shall be referred to a standing arbitrator to be named annually by the committee, or, failing such nomination, by the sheriff of any adjoining county.

Detached  
parts of  
counties to  
form part of  
the county  
by which  
they are  
surrounded.

**40.** Any detached part of a county shall, for the purposes of this Act, except in so far as otherwise expressly provided, be considered as forming part of that county by which it is surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which it has the longest common boundary : Provided that such detached parts of counties, if consisting only of parts of parishes, shall respectively be considered for all the purposes of this Act to be parts of the parishes by which they are surrounded, or if partly surrounded by two or more parishes, then as forming part of that parish with which they have the longest common boundary.

This section shall not have the effect of subjecting the proprietor of any lands and heritages within such detached part to assessment for road debts affecting the county or counties by which such detached part is surrounded ; but such proprietor shall be and remain liable for any assessments for road debts affecting the county of which such detached part was originally a portion.

A commissioner of supply, the subject of whose qualification is situated within any such detached part of a county, shall be entitled to act as a trustee under this Act for the county of which such detached part is in terms of this section considered to form a part ; but shall not be entitled to act as a trustee for such first-mentioned county unless he possesses a qualification beyond the boundaries of such detached part thereof sufficient to entitle him to be enrolled as

a commissioner of supply for such county. The clerk of supply of any county from which a part or parts are detached shall, in each month of January after the passing of this Act, transmit, free of charge, to the clerk of supply of each county in which any such detached part is so included, a certified copy of the valuation roll in so far as applicable to such detached part or parts and a list of the persons qualified as commissioners of supply in respect of property therein. A.D. 1878.

A ratepayer, the subject of whose qualification is situated within any such detached part of a county, shall be deemed to be a ratepayer within the county of which such detached part is in terms of this section considered to form a part; but shall not be deemed to be, in respect thereof, a ratepayer of such first-mentioned county.

**41.** The board shall, at their first meeting, or at an adjournment thereof, make up a list of the roads, highways, and bridges under their management and control; but no road, highway, or bridge shall be then put on such list unless it had before the commencement of this Act been in use to be maintained out of public funds derived from tolls or assessments or other sources of revenue. The roads, highways, and bridges on such list, and no other, shall be maintained and repaired out of the assessments levied under this Act; and no alteration on or addition to such list shall be made except as herein-after provided. List of highways to be made up. Alteration of list.

**42.** The trustees may, on a written report from the board recommending the same, declare, at any annual general meeting, that any highway shall cease to be a highway within the meaning and for the purposes of this Act, and that whether another highway shall have been substituted therefor or not; or that any road or bridge which at the commencement of this Act was not maintained out of public funds derived as aforesaid, shall, with the consent of the proprietor, which consent he may effectually give although not an absolute owner, be a highway within the meaning and for the purposes of this Act and as such be added to the list mentioned in the preceding section; but such declaration shall not be competent unless the county road clerk shall have given notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road, highway, or bridge is situated, and also affixed in some conspicuous place at both ends of such road, highway, or bridge, for at least one month before the date of the meeting at which such declaration is made. Highways may cease to be such, and other roads may become highways.

A.D. 1878.  
A highway  
ceasing to be  
a highway  
may be shut  
up.

**43.** After a road has, as herein-before provided, ceased to be a highway, the trustees may resolve that it shall be shut up, but such resolution shall not take effect until the expiration of six months from the date thereof: Provided always, that thirty days notice of the intention to propose a resolution to that effect shall be given by advertisement in any newspaper usually circulating in the county in which such road proposed to be shut up is situated, and that, upon such resolution being carried, the county road clerk shall give notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road is situated, and also by printed notices affixed during the said six months in some conspicuous place at both ends of such road.

The determination of the trustees under the preceding section shall be final and not subject to review in any court or in any process or proceeding whatsoever, unless any three ratepayers who shall be dissatisfied with such determination shall, within fourteen days after the date thereof, appeal to the sheriff, and the resolution of the trustees under this section shall in like manner be final and not subject to review, unless any three inhabitants who shall be dissatisfied therewith shall, within six months after the date thereof, appeal to the sheriff, who shall hear and determine the appeal in a summary way, and the decision of the sheriff shall be final and not subject to review, and the expenses of such appeal shall be in the discretion of the sheriff.

The ground occupied by any road which has been shut up in terms of this section shall fall and belong to the person or persons whose lands immediately adjoin thereto, and from whom or his or their predecessor or predecessors the ground so occupied was acquired without payment; and if any question shall arise as to the person or persons to whom such ground should fall and belong, the same shall be disposed of by the sheriff, whose decision shall be final: Provided, that if a price was originally paid for such ground the trustees shall dispose of the same as nearly as may be in the manner herein provided in regard to toll-houses.

Toll-houses  
to be first  
offered to  
adjoining  
proprietors.

**44.** The trustees before selling any toll-house or other building belonging to them shall first offer the same, together with the site thereof, to the person or persons whose lands immediately adjoin thereto, at a price to be fixed by a valuator, to be named by the sheriff, and the price obtained for such toll-house or other buildings shall be applied in the first place to the payment of road debts, if any, and the balance, if any, to the general purposes of this Act:



[41 & 42 VICT.] *Roads and Bridges (Scotland) Act, 1878.* [CH. 51.]

Provided always, that in fixing such price the valuator shall take into consideration the terms and conditions upon which such site was originally acquired. A.D. 1878.

**45.** It shall be lawful for a district committee, or for the board where the county is not divided into districts, subject to the approval of the trustees, to make and, if made, to maintain footpaths on the side or sides of any highway. Provision for footpaths.

**46.** The boundaries of burghs for the purposes of this Act shall be held to be the boundaries thereof as the same are or may be ascertained, fixed, or determined for police purposes under the provisions contained in any general or local Act of Parliament, or, when no police assessment is levied, as the same are or may be ascertained, fixed or determined, for municipal purposes. Boundaries of burghs.

**47.** From and after the commencement of this Act, the highways and bridges situated within any burgh shall be by virtue of this Act transferred to and vested in the local authority of such burgh, and such local authority shall have the entire management and control of the same, and shall possess the same rights, powers, and privileges, and be subject to the same liabilities in reference to such highways, and bridges (including the construction of new roads and bridges) as the trustees under this Act possess and are liable to in reference to roads, highways, and bridges (including as aforesaid) in the landward part of the county, including the right to any assets belonging thereto, and shall also have and may exercise with reference to the construction, maintenance, and repair of the roads, highways, and bridges within their respective boundaries, such and the like powers and authorities as they possess with reference to any streets within their respective boundaries : Provided that the local authority of any burgh not containing more than ten thousand inhabitants according to the census last taken may, by a resolution passed at a meeting summoned for the purpose, on not less than one month's notice, by special advertisement, devolve the management and maintenance of the highways and bridges within the boundaries or forming the boundary thereof upon the trustees of the county within which such burgh or any portion thereof is situated, on payment to such trustees of such an annual sum or upon such terms as may be agreed upon ; and in default of such agreement, on payment of such sum or upon such terms as shall from time to time be settled on the summary application of either party by the sheriff, who shall take into consideration the proportion of traffic from the county passing through the burgh, and all the other circumstances of the case, and whose decision shall

Local authority to have management of roads within burghs.

A.D. 1878. — be final: Provided also, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon with the county road trustees, and thereupon the original rights, powers, privileges, and liabilities of the said local authority shall revive in full force and effect.

Burgh within county where Act not in force may, by agreement or otherwise, assume management, &c. of highways within it.

48. In any county in which tolls and statute labour have been abolished or are not exigible, and in which this Act is not in force, it shall be lawful at any time after the passing of this Act, for the local authority of any burgh situated therein, being a burgh within the meaning of this Act, at a meeting summoned for the purpose on not less than one month's notice, by special advertisement, to resolve to undertake the management and maintenance of the highways within the burgh; and it shall thereupon be lawful for such local authority to agree with the county road trustees or other authority having the charge of the highways within the county as to the terms upon which the highways within the burgh, together with a proportionate part of the debt, if any, affecting the highways within the county, shall be transferred to such local authority, and, failing agreement, the said terms shall be settled on summary application by the sheriff, who shall take into consideration all the circumstances of the case, and whose decision shall be final, and upon the parties agreeing as aforesaid, or upon the terms of transference being settled as aforesaid, the highways within the burgh shall be transferred to and vested in the local authority thereof, who shall have the entire management and control of the same, and shall possess the same rights of assessment, and other rights, powers, and privileges (including the appointment of a clerk or clerks, surveyor or surveyors, and other necessary officers), and be subject to the same liabilities in reference to the highways (including the construction of new roads and bridges) therein, and debt, if any, affecting the same, as the burgh local authority of any burgh under this Act possess and are liable to in reference to the highways (including as aforesaid), and also in reference to the streets within such burgh: Provided always, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon with the county road trustees or other authority as aforesaid, and thereupon the original rights, powers, privileges, and liabilities of the said county road trustees or other authority in regard to the highways within such burgh, and the debt, if any, affecting the same, shall revive in full force and effect.

*Maintenance and Repair of Highways and Assessments therefor.* A.D. 1878.

49. Every district surveyor shall, on or before the thirtieth day of March in each year make up and deliver to the clerk of the board, and to the clerk of the district committee of his district respectively—

Report on condition of highways, and estimate cost of maintenance.

- (1.) A report of the condition of the highways within his district :
- (2.) A specification of works and repairs proposed to be executed thereon ; and
- (3.) An estimate of the sums required for the purposes of the highways within the district for the year from the fifteenth day of May immediately following to the fifteenth day of May in the year succeeding ; and each district committee shall, on or before the fifteenth day of April in each year, consider such reports and estimates, and shall immediately transmit the same, together with their recommendations, if any, to the clerk of the board, to be by him laid before the annual meeting of the board.

Where a county is not divided into districts the duty in this section imposed on the district surveyor with respect to his district shall be, as nearly as may be, discharged by the surveyor with respect to the whole county.

50. The board shall hold an annual meeting on such day between the fifteenth day of April and the fifteenth day of May in each year, as they may fix, for the purpose of considering the reports, specifications, and estimates before-mentioned, and relative deliverances of the respective district committees, if any, and shall consider and review the same, and give such orders as may seem necessary thereon, and their decision shall be final.

Board to meet and consider reports.

51. The board or any district committee on a written report from the surveyor or district surveyor that it is necessary to shut up for a limited period any highway, for the purpose of repairing the same, may from time to time authorise the shutting up of such highway for such period as they may deem necessary ; provided, that notice of the intention so to shut up a highway shall be given by advertisement in a newspaper circulating in the county or district within which such highway is situated at least fourteen days before such highway shall be so shut up : Provided always, that upon a written report by the surveyor or district surveyor that any highway has become or is about to become dangerous, it may be shut up by the written order of any two

Roads or highways may be shut up for repairs.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. — members of the board or district committee without any previous notice; but notice shall be immediately given, by advertisement as aforesaid, that it has been shut up.

Assessments in counties for management, maintenance, and repair.

**52.** The amount required for the management, maintenance, and repair of highways within each district respectively, or, in the option of the trustees, within the several parishes constituting such district, along with a proportion of the general expenses of executing this Act, as allocated by the trustees in manner herein-before mentioned, shall be levied by the trustees by an assessment to be imposed at a uniform rate on all lands and heritages within such district, or, in the option of the trustees, within each of the parishes constituting such district as aforesaid; and such assessment shall be paid, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same is imposed, except in the case of lands and heritages entered in the valuation roll as of the annual value of four pounds or under, in which case the whole of the assessment imposed on such lands and heritages may, in the option of the trustees, be levied from and paid by the proprietor, who shall be entitled to recover the half thereof from the tenant or occupier; provided, that outgoing tenants or occupiers, removing from lands and heritages during the currency of the year for which such assessments have been imposed, shall have a right of relief against the incoming tenants or occupiers for the proportion of the assessment applicable to the period of the year remaining unexpired at their removal.

Where a county is not divided into districts the assessments by this section authorised shall be imposed upon the whole lands and heritages within the county in the same manner and subject to the same conditions, in and under which they are hereby authorised to be imposed upon the lands and heritages within a district.

Maintenance of bridges in two districts.

**53.** Where any bridge is partly situated in one district and partly in another district, the burden of maintaining and repairing such bridge shall be deemed to rest equally on such districts, and the management thereof shall be vested in such manner as the trustees shall determine.

Assessment in burghs for maintenance and repair.

**54.** The amount required for carrying out the provisions of this Act within any burgh or by the local authority thereof where there is no rate or assessment now levied wholly or partly for the maintenance and repair of streets or roads within the same, shall be levied by the burgh local authority, at such rates as may be necessary for the purpose, by an assessment to be imposed and levied on all lands and heritages within the burgh; and such assess-

ment shall be paid, except as otherwise expressly provided, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which such assessments are imposed, unless where the name of the tenant or occupier is not set forth in the valuation roll, in which case the whole of the assessment imposed on such lands and heritages may be levied from and paid by the proprietor, who shall be entitled to recover the half thereof from the tenant or occupier.

A.D. 1878.

**55.** Where in any burgh at the time of the commencement of this Act the management and control of the streets and roads within the same, and the power to levy any rates or assessments wholly or partly in respect thereof, is vested in the burgh local authority, in virtue of any general or local Act of Parliament, it shall be lawful to continue to impose and levy such rates or assessments, and the amount required for carrying out the provisions of this Act within such burgh or by the local authority thereof shall be included in the sums for payment of which such rates or assessments may be imposed and levied: Provided that such rates and assessments if limited to a maximum may be raised above such maximum, but only to an extent sufficient to produce the amount required for executing this Act as aforesaid: Provided also, that such burgh local authority may, at any meeting called for the purpose, on not less than one month's notice, by special advertisement, pass a resolution that such rates and assessments shall, from and after a date to be fixed in the resolution, thenceforth cease to be levied in respect of such streets and roads; and in the event of such resolution being carried by a majority of votes, the maintenance and repair of the streets and roads, and all expenses connected therewith and with the carrying out the provisions of this Act, shall, from and after such date, be provided for by an assessment within the burgh to be imposed and levied and to be payable as provided in the immediately preceding section, except as otherwise hereinafter provided.

Former modes of assessment may be retained in certain burghs.

*Contracts by Road Authorities.*

**56.** Contracts in relation to roads, highways, and bridges may be entered into as follows:

- (1.) By the trustees of any county with the trustees of any other county, or the local authority of any burgh, or by the local authority of any burgh, with the local authority of any other burgh, or the trustees of any county, for the maintenance and repair of any road, highway, or bridge,

Power for road authorities to make contracts in respect of repair of roads, highways, or bridges.

A.D. 1878.

which, or any continuation or part of which, lies within the jurisdiction of the parties to such contract; and

- (2.) By the trustees of any county or the local authority of any burgh with any contractor or other person or persons for the repair of any roads, highways, or bridges, which such trustees or local authority are liable to repair, or for the repair of any portion thereof.

Any moneys duly payable in pursuance of any contract under this section in respect of the maintenance and repair of roads, highways, or bridges to any authority, person or persons, who have so repaired the same, shall be deemed to be expenses duly incurred by the authority paying such moneys in the performance of their duties as the road authority of the road, highway, or bridge in respect of which such moneys are paid.

The duration of a contract under this section shall not exceed three years.

The board or a district committee, with the consent of the trustees of any county, may exercise the powers conferred by this section on such trustees.

*Extraordinary Traffic.*

Power of road authority to recover expenses of extraordinary traffic.

57. Where by the certificate of their surveyor or district surveyor it appears to the authority which is liable to repair any highway that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same or by extraordinary traffic thereon, such authority may recover in a summary manner before the sheriff (whose decision shall be final), from any person by whose order the excessive weight has been passed, or the extraordinary traffic has been conducted, the amount of such extraordinary expenses as may be proved to the satisfaction of the sheriff to have been incurred by such authority by reason of the damage arising from such excessive weight or traffic as aforesaid.

Provided that any person against whom expenses in respect of the passing of excessive weight or of extraordinary traffic are or may be recoverable under this section, may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such passing of such excessive weight, or of such extraordinary traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this section. This section shall have effect in every county in Scotland, notwithstanding that the other provisions of this Act have not been adopted or are not in force therein.

*Construction of new Roads and Bridges.*

A.D. 1878.

58. The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time, at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same, and all new roads and bridges so constructed shall be highways; and the expense of such construction, so far as payable by the board, shall be raised by an assessment to be imposed and levied as the trustees may determine either on the county (except as herein-after otherwise provided), or on the district or districts within which such new road or bridge is situated, or partly situated, in the same manner and with the same powers, including the power of borrowing money, as is herein-after provided in the case of assessments for payment of debt in so far as the same are applicable thereto; and such assessment shall not extend over a longer period than fifty years, and shall be levied from and paid by the proprietors of lands and heritages within such county or district or districts; provided, that where any such new bridge is not situate wholly within one county or burgh, the agreement for the construction thereof shall provide for the proportions in which the expense of the future maintenance of such bridge shall be divided between the county or counties and burgh or burghs in which the same is partly situated respectively; and failing such agreement such expense shall be deemed to rest equally upon the counties or county and burgh or burghs within which such bridge is partly situated, as the case may be: Provided always, that no such resolution for the construction of any new road or bridge in any insular district shall be carried into effect without the consent of the district committee of such district, and that no assessment shall be levied on any other part of the county for the expense of such construction, nor shall any assessment be levied on such district for the expense of construction of any new road or bridge in any other part of the county.

New roads and bridges may be constructed by the board, and assessed for upon proprietors.

The burgh local authority shall have the same powers in regard to the construction of new streets or roads or bridges to be wholly or partly situate within the burgh, which the county road trustees have in regard to the construction of new roads or bridges wholly

A.D. 1878. — or partly situated within the county ; but the assessments for paying or providing for the expense of such construction shall be levied in the same manner as the assessments for maintaining and repairing the streets within the burgh.

The provisions of this section shall apply to the rebuilding of bridges.

*Valuation and Allocation of Debt.*

Appointment  
of Debt Com-  
missioners.

**59.** With respect to the valuation and allocation of road debts in counties in which such debts have not been previously valued and allocated, the following provisions shall have effect :

For the purpose of valuing and allocating road debts as herein-after provided, where the parties fail to agree, the Secretary of State may, by any writing under his hand, appoint two or more persons skilled in law and accounts, who shall be called "Debt Commissioners." The appointment of a Debt Commissioner shall be published in the Edinburgh Gazette, and may be re-called by the Secretary of State at any time, by a writing under his hand, which shall be published in the same manner. A Debt Commissioner shall have power to call for production of all books, accounts, securities, vouchers, and other documents relating to such debts, and to examine witnesses on oath in regard thereto.

The Secretary of State may, if he shall think fit, in order to secure the speedy and uniform valuation and allocation of such debts, from time to time assign, by any writing under his hand, districts to the Debt Commissioners, and a Debt Commissioner shall be deemed to be appointed for and shall have power to act only within the district so assigned to him. Any such writing under the hand of the Secretary of State shall be published in the Edinburgh Gazette.

Clerks of  
trusts to  
make out  
list of debts.

**60.** The clerks of the turnpike and statute labour and bridge trusts in each county (including the burghs situated wholly or partly therein) shall, whether the roads, highways, and bridges subject to such trusts are wholly situated within such county or not, within two months after the date of the commencement of this Act, make out a list of the whole debts of each such trust, distinguishing as far as possible their order of preference, and also showing what proportions thereof consist of principal, and of arrears of interest, and also the amount of interest chargeable and paid upon such principal, if any, and the names of the creditors in such debts, so far as known to them ; and such lists shall be deposited in the offices of such clerks for the inspection of all persons interested or claiming to be interested in such debts.



**61.** The clerks of the several trusts respectively shall, by special advertisement, and also by notice inserted once in the Edinburgh Gazette, within eight days after the aforesaid lists have been deposited, give intimation that such lists have been so deposited, and require all persons claiming to be entitled to payment of any debt affecting the roads, highways, and bridges embraced in such trusts, or the tolls or revenues thereof, to lodge their claims and the vouchers thereof with them on or before a day to be specified in such notice, which day shall be at an interval of not less than six weeks and not more than two months from the first publication of such advertisement: Provided that no claim or voucher shall be required to be lodged in respect of any debt due to the Public Works Loan Commissioners or to their Secretary on their behalf.

A.D. 1878.  
Intimation  
to creditors.

**62.** Within twenty-one days after the day specified in the said notice, the clerks of the aforesaid trusts respectively shall, from the lists made up by them, and the claims and vouchers which may be lodged with them, make up a full and complete revised list of all the debts affecting or alleged to affect the roads, highways, and bridges embraced in such trusts, and the tolls or revenues thereof, and the interest due thereon, and the names and designations of the creditors entitled or claiming to be entitled thereto, with such notes or observations on such claims and vouchers as they may think necessary.

Revised list  
of debts to  
be made up.

**63.** The list of debts revised as aforesaid shall, immediately on the expiry of the last-mentioned period, be docquetted and signed by the clerk of the trust, and thereafter deposited in the office of the county road clerk; and where in any trust there is a road, highway, or bridge situated in more than one county, a copy of such list of debts, docquetted and signed as aforesaid, shall be deposited in the office of the county road clerk of each such county in which this Act has been adopted or is in force, and in the office of the clerk of supply of any such county in which this Act has not been adopted or is not in force; and intimation that the same has been so deposited shall be forthwith made by special advertisement, and the said list shall for one month after the first publication of such notice be open for inspection, free of charge, to all persons interested or claiming to be interested therein, and any person claiming to be a creditor of the trust may, during that period require such clerk to insert his name in the said list.

Revised list  
to be open to  
inspection.

**64.** The board or boards of the several counties and local authority or authorities of the several burghs respectively within which the roads, highways, and bridges are situated or partly

Debts affect-  
ing counties  
and burghs  
may be com-  
promised.

A.D. 1878. situated upon which or the tolls or revenues whereof respectively the debts of each trust were charges before the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, may adjust, compromise, and determine, in conjunction with the creditor or creditors, the value of any such debt due or claimed to be due by or from any such trust respectively: Provided that no such adjustment, compromise, or determination shall be effectual unless made or approved of at a special meeting of the board, or at an ordinary or special meeting of the burgh local authority, as the case may be.

Valuation  
of debts.

**65.** In the event of any such debt not being adjusted, compromised, and determined as herein-before provided, the trustees of any such county or counties, and the local authority or authorities of any such burgh or burghs, as the case may be, may tender to the creditor therein a written statement of the value at which such debt is estimated by them; and such statement, if accepted by such creditor, or not objected to by him within the period of one calendar month from the date of such tender, shall be held to ascertain and determine the value thereof; and it shall be lawful to such creditor, if dissatisfied with such statement, within one calendar month from the date of such tender, or, when no such tender shall have been made, within six months after the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, at the expiration of such six months, to apply to any Debt Commissioner appointed in terms of this Act, to proceed to ascertain and value such debt; and any one having interest shall be entitled to appear and be heard, and the said Debt Commissioner shall ascertain whether any and what debt is due, with the interest thereon, and shall estimate and determine the value of the same, without regard to any personal or other collateral obligation undertaken by trustees or others, and in making such valuation shall take into account the interest paid on such debt out of the trust funds, the state of repair of the roads or bridges to which the debt is applicable, and shall take into consideration every circumstance which might in his opinion reduce, enhance, or in any way affect the value thereof; and the decision of the said Debt Commissioner, who shall also dispose of all questions of expenses, shall be final, save only that if the trustees of such county or counties, or such burgh local authority or authorities, as the case may be, or the creditor in the debt shall be dissatisfied with such decision in point of law, they or any of them may require the Debt Commis-

sioner to state the facts of the case and such question of law, and his decision thereon in a special case; and the Debt Commissioner shall prepare and sign such case, and deliver the same to the person or persons requiring the same, who may within ten days of the date of such case lay a certified copy thereof before one of the divisions of the Court of Session for their decision thereon; and the said division shall, with all convenient speed, hear parties, and give their decision thereon, and shall dispose of all questions of expenses; and, in the event of reversal, the Debt Commissioner shall alter his decision in conformity with the decision of the said division, which shall be final and not subject to review.

A.D. 1878.

Where any creditor shall be found liable in the whole or any part of the expenses of the valuation, as determined by the Debt Commissioner (including a reasonable fee to the Debt Commissioner), the same may be deducted from the sum or sums found due to him before payment thereof, or may be recovered in any other way.

Every determination of the value of a debt in terms of this or the preceding section shall set forth the date at which such debt is so valued, and where made by a Debt Commissioner shall be delivered by him to the creditor in the debt.

**66.** Where any trust existing at the commencement of this Act comprises any road, highway, or bridge partly situated in or made a burden on two or more counties in Scotland, whether all of such counties shall have adopted this Act or not, the trustees of such counties respectively may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such counties respectively, and, if they shall fail to do so before the expiration of one month after the date of such valuation, any Debt Commissioner appointed in terms of this Act, on the application of the clerk of any of the said trustees, or of any of the creditors in such debts, shall forthwith proceed to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be, and shall be, allocated upon, and be a charge against, the several counties respectively, and the decision of such Debt Commissioner shall be final: Provided that the expenses of such allocation (including a reasonable fee to the said Debt Commissioner) shall be payable by the said trustees rateably according to the sums of debt allocated to their respective counties.

Allocation of debts on roads in two or more counties.

A.D. 1878.

Allocation  
of debts  
between  
landward  
parts of  
counties and  
burghs.

**67.** Where any trust existing at the commencement of this Act comprises any road, highway, or bridge situated partly within or made a burden on any burgh or burghs, and any county or counties, or partly within or made a burden on any two burghs, the trustees of such county or counties, whether all of such counties shall have adopted this Act or not, and the local authority or authorities of such burgh or burghs respectively, may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such county or counties, and burgh or burghs, respectively; and, on their failing to do so before the expiration of one month after the date of such valuation, any Debt Commissioner appointed in terms of this Act, on the application of the clerk of the said trustees, or of the said local authorities, or any of them, or of any of the creditors in such debts, shall proceed forthwith to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be and shall be allocated upon and be a charge against such trustees and such local authority or authorities respectively, and the decision of such Debt Commissioner shall be final: Provided that the expenses of such allocation (including a reasonable fee to such Debt Commissioner) shall be payable by the said trustees or local authority or authorities, rateably according to the sums of debt allocated to their county or counties, burgh or burghs respectively.

Debts to be  
charged  
against  
counties and  
burghs, and  
to bear in-  
terest. Cer-  
tificates of  
debt to be  
granted.

**68.** The debts of each trust when valued and allocated as herein-before provided shall be charges against the trustees of the several counties and local authorities of the several burghs respectively and the assessments to be imposed as herein-after provided for the payment thereof and interest thereon as after mentioned; and the trustees and burgh local authorities shall respectively deliver to each creditor a certificate or certificates in the form or as nearly as may be in the form of Schedule (A.) No. 1. hereunto annexed, signed by the chairman of such trustees or by the provost or chief magistrate of such burgh, as the case may be, and each certificate shall be entered in a register to be kept by the county road clerk or by the clerk of the burgh local authority respectively, and shall be conclusive evidence of the right of such creditor to the said debt, and to interest thereon at the rate of four per centum per annum from the date of the valuation of such debt. Such certificate may be transferred by such creditor, or any other person having right thereto for the time being, by an indorsation in the form or as nearly as may be in the form of Schedule (A.)

No. 2. hereto annexed, which transfer shall be entered in the said register; and the person in whose favour such transfer is made and registered shall acquire thereby the whole rights in regard to such debt and interest thereon of the creditor in whose favour such certificate was originally granted.

A.D. 1878.

69. No debts except those valued and allocated as herein-before provided shall be a charge upon the trustees of any county or the local authority of any burgh, and all road debts, except as aforesaid, shall be extinguished, but without prejudice to any claim otherwise competent to the creditors therein against any individual or individuals who may have given any personal or collateral obligation in regard to such debts.

Extinction  
of debts not  
charged in  
terms of Act.

70. Whereas by section sixty-eight of the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, it is enacted "that it shall  
" and may be lawful for any proprietor or heir of entail in  
" possession of any entailed estate, or the tutor or curator  
" of such proprietor or heir of entail who may be desirous of  
" advancing or lending any sum or sums of money for the purpose  
" of making or maintaining any turnpike road or building any  
" bridge on the same to be made or built subsequent to the passing  
" of this Act either to bind himself personally as a trustee of such  
" turnpike road, and also to bind the succeeding heirs of entail for  
" the repayment of any such sum or sums of money to any person  
" or persons who may advance the same to the trustees of such  
" turnpike road, or to advance such sum or sums, and to render  
" the same a burden upon the said entailed estate and the suc-  
" ceeding heirs of entail, or having advanced such sum or sums, to  
" borrow the like sum or sums, and to bind himself and the said  
" estate and the heirs of entail succeeding thereto for the same;  
" and all bonds and obligations for money so to be advanced or  
" borrowed and applied shall be held to bind such proprietors in  
" cases where they have personally bound themselves and also the  
" heirs of entail in such estates for the repayment of such money,  
" and such bonds and obligations shall be valid and effectual  
" against the granter of the same and also against the heirs of  
" entail succeeding to them in such entailed estates, and such sums  
" shall be and continue to be a real burden on such estates till  
" repaid out of the tolls and duties levied on such turnpike road:  
" Provided also, that the share or proportion of such sum or sums  
" of money so to be advanced or borrowed affecting such succeeding  
" heirs of entail shall not exceed one year's free rent of the entailed

Certain road  
debts may be  
charged on  
entailed  
estates by  
bond and  
disposition  
in security.  
1 & 2 W. 4.  
c. 43. s. 68.

A.D. 1878. — “ lands of such proprietor situated in each parish respectively  
“ through which any such turnpike road or any part thereof shall  
“ run, or on which such bridge or any part thereof shall be built,  
“ and that the heir of entail in possession of such entailed estate  
“ shall be obliged to keep down the interest of such sum or sums  
“ of money so advanced or borrowed: Provided also, that it shall  
“ not be lawful to the creditor or creditors in right of any such  
“ debt to adjudge or otherwise evict the entailed estate for payment  
“ thereof, or any part thereof, but it shall and may be competent  
“ to such creditor or creditors to prosecute such remedy or  
“ remedies against the rents thereof as are given and allowed by  
“ the law of Scotland to heritable creditors:”

And whereas the obligations for such debts were incurred in reliance upon the continuance of a right to levy tolls, which right will be abolished after the commencement of this Act; and whereas it may happen that under the provisions of this Act the full amount of such debts for which such heirs of entail became liable may not be found included in the amount for which certificate of debt is herein-before directed to be granted to the creditor or creditors therein: Be it enacted, That the heirs of entail personally liable for payment of such debts, or for the portion thereof not included in such certificate, shall have all the like powers of charging the fee and rents of the entailed estate, or any portion thereof other than the mansion house, offices, and policies thereof, with the full amount of such debts not included in such certificate, and of granting with the authority of the court of session bonds and dispositions in security for the full amount of such debts as aforesaid, as by the Act passed in the thirty-first and thirty-second years of the reign of Her present Majesty, chapter eighty-four, section eleven, are conferred with reference to entailers' debts; and such bonds and dispositions in security may be granted in favour of any parties in the right of such debts at the date when such bonds and dispositions in security are executed.

31 & 32 Vict.  
c. 84. s. 11.

*Provisions for Payment of Debt.*

Payment of  
interest  
under the  
provisions of  
this Act.

**71.** Until all the debts for which certificates of debt have been granted as herein-before provided shall have been paid as herein-after provided, the trustees shall annually investigate and determine what sum of money is requisite to pay the interest of such debts remaining unpaid chargeable against the county for the current year, and shall impose and cause to be levied an assessment on all lands and heritages within the county at such a rate as shall be necessary to provide the aforesaid sum; and in like

manner the local authority of a burgh shall impose and levy annually such an assessment as may be necessary to pay the interest of such debts remaining unpaid as are under the provisions of this Act charges against the burgh. A.D. 1878.

**72.** The trustees of each county shall, at the first general meeting after such allocation, resolve that the debts affecting the highways within such county, if any, valued and allocated as herein-before provided, shall be paid and provided for, and shall give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice; and the local authority of each burgh shall, at a special meeting held for the purpose, not later than one month after such allocation, resolve that the debts affecting the highways within such burgh, if any, valued and allocated as herein-before provided, shall be paid and provided for, and shall give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice. Trustees and burgh local authority to resolve to pay off debt.

**73.** At the term of Whitsunday or Martinmas, mentioned in the notice to the creditor in any debt, the trustees or local authority, as the case may be, shall make payment to such creditor of the sum specified in the certificate of debt held by him, along with the interest thereon from the date of valuation until the date of payment, except in so far as already paid, and the creditor shall be bound to deliver up such certificate, with a discharge thereon as nearly as may be in the form of Schedule (A.) No. 3, hereunto annexed, and such discharge shall be entered in the register herein-before mentioned. Payment and discharge of debts.

**74.** After such resolution to pay the debts has been adopted by the trustees of any county, such trustees shall impose and levy annually an assessment on the whole lands and heritages within the county as appearing on the valuation roll; and after such resolution has been adopted by the local authority of any burgh, the said local authority shall impose and levy annually an assessment upon the whole lands and heritages within the burgh appearing on the valuation roll; and such assessment shall be imposed and levied in the county or burgh respectively at such rates as shall be sufficient to provide a sum equal to not less than one fiftieth part of the total debt valued and allocated on such county or burgh respectively, and also the yearly interest on such debt, or the balance thereof Assessment for payment of debt.

A.D. 1878. from time to time remaining due, at a rate not exceeding five pounds per centum per annum.

All assessments for payment of debt, and for payment of interest on any debt, shall be paid by proprietors only.

Trustees and burgh local authority may borrow on security of assessments.

**75.** It shall be lawful for the trustees of any county, or the local authority of any burgh, respectively, to borrow on the security of the assessments for the payment of debts to be levied under this Act within their respective boundaries, all or any moneys required in such county or burgh for the purpose of paying off such debts, and such moneys may be borrowed at any rate of interest not exceeding five pounds per centum per annum; and such moneys may be borrowed under an assignation in security in the form contained in the Schedule (B.) No. 1. to this Act annexed or to the like effect, which shall be duly executed, if signed, in the case of moneys borrowed by the trustees, in the manner and by the person or persons herein-after appointed for the purpose, and in the case of money borrowed by the local authority of any burgh, by the provost or chief magistrate and clerk of the local authority of such burgh; and every such assignation in security shall be effectual for securing to the person advancing the sum of money in such deed expressed to be advanced, and to his heirs, executors, and assignees, the repayment thereof, with interest for the same, after such rate and at such time and in such manner as in such assignation in security provided; and the said assignations in security shall be numbered in the order of succession in which they are granted, and shall be entered by the county road clerk or clerk of the burgh local authority, as the case may be, in a book to be called the register of "road debt securities," to be kept by them for that purpose; and every such assignation in security shall be validly transferred by an indorsation on such assignation in security, by the person entitled thereto for the time being, of a transfer in the form or as nearly as may be in the form of the Schedule (B.) No. 2. hereunto annexed; and the persons in right of such assignations in security shall be creditors upon the assessments thereby expressed to be assigned in security in an equal degree one with another, and shall not have any preference or priority other than is provided in such assignations in security under the powers of this Act.

Loans to be repaid out of assessments imposed under authority of Act.

**76.** The trustees of any county, and the local authority of any burgh, by whom any such assignations in security as aforesaid shall have been granted shall annually make payment to the creditors therein, out of the assessments coming into their hands for that



purpose, of interest at a rate not exceeding five pounds per centum per annum on the sums contained in any such assignations in security, and also of such farther sums to account of the principal sums contained in such assignations in security as will extinguish the same within the currency of the assessments for extinction of debt to be levied under the powers of this Act; and the said trustees and local authority of any burgh shall, by agreement with the persons advancing any money as aforesaid, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county, and local authority of each burgh so borrowing any moneys, are hereby required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed as aforesaid, and the interest thereof, in a book or books separate and apart from all other accounts.

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77. No person lending any moneys as aforesaid, and taking an assignation in security for repayment thereof, executed in manner directed or allowed by this Act, and purporting to be made under the authority of this Act, shall be bound to require proof that the several provisions of this Act have been duly complied with; and it shall not be competent to any ratepayer or other person to question the validity of any such assignation in security on the ground that such provisions have not been complied with.

Provision for protection of lenders on security of assessments.

78. Where any moneys shall have been borrowed under the powers of this Act, it shall be lawful for the trustees, or local authority by whom such moneys shall have been borrowed, to pay off the moneys so borrowed, and again to borrow the moneys necessary for that purpose, and also to repay the said last-mentioned moneys, and the interest thereof, under the powers of this Act, but so nevertheless that all moneys borrowed shall be repaid within a period not exceeding fifty years from the time when the assessment for the extinction of debt was first imposed by them under the provisions of this Act.

Trustees and burgh local authority may pay off loans, and borrow money for that purpose.

79. In case any debt or interest due thereon shall remain in the hands of the trustees of any county, or local authority of any burgh, unclaimed by the persons entitled thereto for the period of three months after the term of Whitsunday or Martinmas at which the same respectively became payable, the trustees and local authority shall respectively be exonerated and discharged in so far as respects such debt or interest by consignment thereof in the name of the several persons entitled thereto, so far as known to them, in any chartered or incorporated bank in Scotland.

Unclaimed instalments to be consigned.

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Sums payable to persons under disability may be consigned.

8 & 9 Vict. c. 19.

Saving as to loan to Mull district of Argyllshire. 27 & 28 Vict. c. cevi.

**80.** Any sums payable under this Act to persons under disability may be consigned in bank in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in the case of moneys payable to persons under disability.

**81.** The provisions of this Act shall not apply to the principal money or interest of the debt due to the Public Works Loan Commissioners or their secretary on their behalf from the Mull district of roads trustees, nor to any debt due by the district road trustees of any of the several districts into which the county of Argyll is divided, for the purposes and under the powers and provisions of the Argyllshire Roads Act, 1864; but notwithstanding any of the provisions of this Act, the whole of such principal money and interest shall remain secured and payable and recoverable in terms of the securities given for the same.

*General Provisions as to Assessments.*

Terms at which assessments shall be payable.

**82.** All assessments imposed under the authority of this Act shall be deemed and taken to be for the year from the fifteenth day of May preceding the date of imposing the same, and shall, subject to the provisions herein-after contained, be imposed according to the valuation of the lands and heritages in the valuation roll in force for the year in which such assessment is imposed, and the same shall be made payable on or before a day to be fixed at the time of imposing the same, not earlier than the first day of November and not later than the first day of February then next ensuing.

Collection of assessments.

**83.** All assessments imposed by the trustees under the provisions of this Act may be levied and collected by the county road collector, or such other person or persons as the trustees may from time to time appoint; provided, that it shall be lawful for the trustees, if they shall see fit, to require the commissioners of supply of the county to collect the assessments upon lands and heritages imposed by the trustees under the provisions of this Act, and the commissioners of supply of the county shall cause all such assessments to be levied and collected, when required to do so by the trustees, who shall be liable for and pay the whole necessary expenses attending such collection.

Board to hear appeals.

**84.** All appeals by persons complaining that they have been improperly assessed in respect of any assessment imposed by the trustees under the provisions of this Act shall be heard and determined by the board, or in the case of any insular district by the district committee of such district; and the trustees when imposing any assessment shall fix a day, not being less than fourteen days preceding the day on which such assessment under this Act is made

payable, on or before which appeals by any persons complaining that they have been improperly assessed shall be lodged with the county road clerk, or in the case of insular districts with the district clerk, as the case may be, and another day, not less than fourteen days thereafter, on which such appeals shall be heard: Provided that notice of both such days shall be given upon or along with the notice of assessment: Provided also, that it shall be lawful for the board to relieve from assessment any occupiers of lands and heritages under the annual value of four pounds, as appearing on the valuation roll, on the ground of poverty.

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**85.** The whole powers and rights of issuing summary warrants and proceedings, and all remedies and provisions enacted for recovery of the land and assessed taxes, or either of them, and other public taxes shall be applicable to the assessments by this Act authorised to be imposed and levied by the trustees of any county, and sheriffs, magistrates, justices of the peace, and other judges may, on the application of the clerk or collector, grant warrant for the recovery of such assessments, in the like form and under the like penalties as is provided in regard to such land and assessed taxes and other public taxes: Provided, nevertheless, that it shall be competent to the trustees to prosecute for and recover such assessments by action in the sheriff small debt court, or in any other court, as the case may be, and that in any summons, complaint, or action for the recovery of such assessments more than six defenders may be cited and called, any law or practice to the contrary notwithstanding; and all assessments imposed in virtue of this Act shall, in the case of bankruptcy or insolvency, be preferable to all debts of a private nature due by the parties assessed.

Power to recover assessments imposed by trustees.

**86.** The local authority of any burgh shall, in the imposing, levying, and recovering of the assessments authorised by this Act, possess the whole powers, rights, and remedies in force for the time being within such burgh, with reference to the imposing, levying, and recovering of the police assessment, or if there be no police assessment, any other assessment or rate levied by the local authority within such burgh; and the assessments authorised by this Act shall be subject to like exemptions and restrictions as are applicable to the said police assessment or other assessment or rate, and may be collected either separately or along therewith. The whole amount of the assessments authorised by this Act may be levied on and recovered from the tenant or occupier, who, on payment and on production of a receipt therefor by the collector, shall be entitled to deduct one half of the amount, or in the case of assessments for payment of debt and interest thereon the whole amount thereof, from the rent payable to the proprietor; and all such

Assessments in burghs, how to be levied and recovered.

A.D. 1878. — assessments shall, in the case of bankruptcy or insolvency, be preferable to all debts of a private nature due by the persons assessed; provided that it shall be lawful for the local authority to relieve from assessment the occupiers of lands or heritages under the annual value of four pounds as appearing on the valuation roll, on the ground of poverty.

Burgh may apply certain funds to maintenance of roads in lieu of assessments.

**87.** When in any burgh there shall be funds available, and which may be lawfully applied, for the maintenance and repair of highways therein, under the control of the local authority of any burgh, or for the payment of debt affecting any such highways, such local authority may apply such funds for such purposes in aid of the assessment authorised to be imposed by this Act; or otherwise, if such funds shall be sufficient for such purposes, the whole or such part thereof as may be necessary may be so applied, in place of making an assessment under the provisions of this Act.

*Special Provisions as to certain Bridges.*

As to cost of maintaining, &c. certain bridges.

**88.** Whereas there are or may be bridges in Scotland which accommodate or may accommodate the traffic not only of the county or counties or burgh or burghs, as the case may be, within which they are locally situated, but also of the adjoining county or of other counties and burgh or burghs, or one or more of them, and it is not reasonable that the whole burden of managing, maintaining, repairing, and if need be, re-building such bridges and of paying the debt affecting or which may affect the same, should be imposed upon the county or burgh within which they are so situated: Be it enacted, that in respect of such bridges the following provisions shall have effect:

(1.) The trustees of counties and burgh authorities may agree that any such bridge accommodates other traffic than that of the county or burgh in which it is situate, and may agree as to the proportions in which the debt (if any), and the cost of maintenance and, if need be, of rebuilding such bridge shall be borne and defrayed by the county or counties and burgh or burghs to which it is common; and such agreement, when confirmed by a resolution of the trustees in general meeting and of the burgh authorities, shall have the same force and effect as an order by the Secretary of State, as provided herein-after.

(2.) It shall be lawful for the county road clerk or clerk of supply of any county, or for the town clerk or clerk of any burgh to apply to the Secretary of State to determine that any bridge locally situated within a county or burgh in respect of its accommodating other traffic than that of such

county or burgh only, shall be deemed to belong in common to the county or counties, and burgh or burghs, to be named in his determination : A.D. 1878.

- (3.) Upon such application being presented to the Secretary of State, he may, if he shall think fit, by any writing under his hand appoint any two persons as commissioners to institute a local inquiry as to the circumstances of the case, and after hearing all parties interested, to report thereon to the Secretary of State, and for the purposes of such inquiry the commissioners shall have power, after such public notice as they may think sufficient, to examine witnesses on oath, and to call for such documents as they may consider necessary, and to do all such matters and things as may seem expedient to them for the purposes of the inquiry :
- (4.) If the commissioners are of opinion that the Secretary of State should determine that the burden of managing, maintaining, repairing and, if need be, rebuilding the bridge mentioned in the application and of paying the debt affecting or which may affect the same should not be borne wholly by the county or burgh within which the same is locally situated, they shall prepare and transmit along with their report the draft of the determination which they recommend that the Secretary of State should make, setting forth therein the proportions in which such burden should be borne by the county or counties, or part or parts, or district or districts of such county or counties, and by the burgh or burghs named in the determination :
- (5.) The Secretary of State after such further inquiry, if any, as he shall deem necessary, may approve of the draft submitted with or without alterations, and any determination made by him under his hand and seal, shall have the same effect as if it were contained in this Act: Provided always, that such determination shall be laid before both Houses of Parliament, and if either House of Parliament, within forty days after the same has been so laid before it, resolve that such determination ought not to take effect, the same shall be of no effect (without prejudice to the making of any new determination), but otherwise shall come into operation at the expiration of the said forty days, or any later date mentioned in the determination :
- (6.) The Secretary of State may make orders as to the costs incurred in relation to any inquiry under this section,

A.D. 1878.

including the reasonable remuneration of the said commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form.

*Special Provisions for Highways in Counties of Lanark and Renfrew.*

Special provisions for highways in counties of Lanark and Renfrew.

**89.** Whereas it is expedient to make special provision in this Act in regard to the highways within the counties of Lanark and Renfrew: Be it enacted as follows:

This Act shall commence to have effect within the counties of Lanark and Renfrew (including the burghs situated or partly situated therein) on the first day of June, one thousand eight hundred and eighty-two, but subject to the provisions following; (that is to say,)

- (1.) The debts affecting the turnpike and statute labour roads within the counties of Lanark and Renfrew, including the burghs therein situated, after having been valued as herein-before provided, shall be charged, and are hereby allocated upon the said counties and the burghs therein situated, in the proportion of their respective valuations at the commencement of this Act, as appearing from the valuation rolls then in force. The debts so allocated shall in all respects be deemed to be debts allocated in terms of this Act, and all the provisions of this Act with respect to debts which have been valued and allocated shall have effect with reference thereto:
- (2.) The city of Glasgow, and the burghs of Rutherglen, Govan, Partick, Maryhill, Hillhead, Crosshill, Kinningpark, Pollockshields, and Govanhill shall jointly contribute the sum of twelve thousand five hundred pounds annually towards the cost of maintaining the roads, highways, and bridges within the counties of Lanark and Renfrew. The said sum shall be a charge upon and be paid by the said city and the said burghs, in the proportion of their respective valuations at the commencement of this Act appearing as aforesaid, and shall be divisible between and be paid to the said counties, or any districts into which the same may be divided, in terms of this Act, in the manner and in

the proportions which shall be determined by a commissioner appointed for the purpose by the Secretary of State, and shall be applied towards the maintenance of the roads, highways, and bridges within such counties or districts respectively, and in diminution, pro tanto, of the assessments for such maintenance leviable therein in terms of this Act. The amount falling to be paid by each such city and burgh to each such county or district respectively shall be payable at the expiration of one year from the date at which tolls shall cease to be exigible within such county or district, and at the expiration of each successive year thereafter; and if not paid when due, may be recovered with expenses in the Court of Session, at the instance of the county road clerk of the county. The Secretary of State may make orders as to the remuneration and travelling or other expenses of the said commissioner, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form:

Provided always, that if at any time after the expiration of five years from and after the commencement of this Act, within the counties of Lanark and Renfrew, it shall appear to the trustees of the said counties, or either of them, or to the burgh local authority of the city of Glasgow, or of any one of the said burghs, that, having regard to the cost of maintaining the roads, highways, and bridges within the said counties, or either of them, the payment of the said sum of twelve thousand five hundred pounds sterling should be altered, the trustees of the said counties, or either of them, or the said burgh local authority, may from time to time apply to the Secretary of State to make a Provisional Order altering the said payment, and the Secretary of State may issue a Provisional Order under his hand and seal of office, in relation to the matters mentioned in the application, either in accordance with the prayer thereof or with such modifications or alterations as may appear to him to be requisite, and the whole procedure prescribed by section nine of this Act with reference to the Provisional Orders thereby authorised, and the confirmation thereof,

A.D. 1878.

shall be and are hereby made applicable to the Provisional Orders authorised by this section; or the trustees of the said counties, or either of them, or the burgh local authority may, instead of applying to the Secretary of State to make a Provisional Order, apply to Parliament by Private Bill to effect the said objects, provided that such Private Bill shall not contain any provisions except such as may be necessary to effect such alteration :

- (3.) If it shall appear to the local authority of Glasgow, or of any of the burghs mentioned in this section, that any road, highway, or bridge within two miles of their respective boundaries is not, in whole or in part, maintained in a sufficient state of repair, having regard to the traffic passing over the same, it shall be lawful for the clerk of such local authority to apply, in a summary way, to the Lord Ordinary on the Bills in the Court of Session, and the Lord Ordinary, after inquiry, may make such order as to him shall seem proper to remedy the evil complained of, and may ordain the said order to be carried into effect by, and at the sight of, such persons as he may think fit, and at the expense of the county, or district, as the case may be, and such order, which may also dispose of the expenses of the application, shall be final and not subject to review. The sums expended in terms of this section shall be deemed to be sums expended in the execution of this Act :
- (4.) From and after the date at which the annual contribution mentioned in this section shall commence to be payable, the sum of eight hundred and sixty pounds now payable by the lord provost, magistrates, and council of Glasgow as coming in place of the board of police of Glasgow to the statute labour road trustees of the barony parish of Glasgow, and the sum of sixty pounds now payable by them to the statute labour road trustees of the parish of Govan respectively, shall cease to be so payable :
- (5.) The populous places of Govan, Partick, Maryhill, Hillhead, Crosshill, Kinningpark, Pollockshields, and Govanhill shall, irrespective of their population, be deemed to be burghs within the meaning and for the purposes of this Act.

*Special Provisions as to Highways partly in England.*

As to cost of maintaining, &c. high-ways partly in England.

90. Where any trust existing at the commencement of this Act comprises a road, highway, or bridge which is situated partly



in Scotland and partly in England, the following provisions shall have effect; (that is to say,) A.D. 1878.

- (1.) It shall be lawful for the county road clerk or clerk of supply of any county in Scotland in which such road, highway, or bridge is partly situated, or for any other person interested, to apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in the case of a bridge) if need be rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties and burgh or burghs in Scotland, and the road authority in England to be named in his determination :
- (2.) Upon such application being presented to the Secretary of State, he may, if he shall think fit, by any writing under his hand appoint any two persons as commissioners to institute a local inquiry as to the circumstances of the case, and after hearing all parties interested, to report thereon to the Secretary of State, and for the purposes of such inquiry the commissioners shall have power, after such public notice as they may think sufficient, to examine witnesses on oath, and to call for such documents as they may consider necessary, and to do all such matters and things as may seem expedient to them for the purposes of the inquiry :
- (3.) The commissioners shall prepare and transmit along with their report the draft of the determination which, having regard to the general provisions of this Act, they recommend that the Secretary of State should make in the premises :
- (4.) The Secretary of State after such further inquiry, if any, as he shall deem necessary, may approve of the draft submitted with or without alterations, and any determination, which, if he shall think proper, may include a provision that the aforesaid trust shall be continued in the manner and for the period therein mentioned for the purpose of levying tolls on the portion of such road or highway in England, made by him under his hand and seal, shall have the same effect as if it were contained in this Act : Provided always, that such determination shall be laid before both Houses of Parliament, and if either House of

A.D. 1878.

Parliament, within forty days after the same has been so laid before it, resolve that such determination ought not to take effect, the same shall be of no effect (without prejudice to the making of any new determination), but otherwise shall come into operation at the expiration of the said forty days, or any later date mentioned in the determination :

- (5.) The Secretary of State may make orders as to the costs incurred in relation to any inquiry under this section, including the reasonable remuneration of the said commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged ; and any such order may be made a rule of Her Majesty's High Court of Justice, and may be enforced accordingly ; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form.

*Miscellaneous Special Provisions.*

Certain existing districts to be deemed counties.

**91.** In every case where, at the passing of this Act, in any county tolls and statute labour have been abolished or are not exigible, and where such county has been divided under any local Act or Acts into two or more separate districts as respects the maintenance and management of roads, highways, and bridges, and the road trustees qualified within each of such several districts have the management of the roads, highways, and bridges therein, together with the power of imposing, levying, and collecting the assessments requisite for making, repairing, and managing the same, each of such several districts in all time after the passing of this Act shall form and shall be regarded as a separate county for the purposes of this Act, and all the provisions of this Act relating to counties shall apply to each of such several districts, and the whole powers and obligations conferred by this Act on county road trustees shall be vested in and may be exercised by the road trustees acting within each of such districts in terms of this Act : Provided that where necessary for giving effect to the provisions contained in this section "convener of county" shall be held to mean and include district chairman and convener, and "clerk of supply" shall be held to mean and include district road clerk appointed and acting under the local Act.

**92.** For all the purposes of this Act in connexion with which the county of Lanark is not specially named, the Lower Ward, Middle Ward, and Upper Ward of the county of Lanark shall each be deemed and taken to be a county in the sense of this Act, under the designations of the "County of the Lower Ward of Lanark," the "County of the Middle Ward of Lanark," and the "County of the Upper Ward of Lanark," respectively, and the convener of the county of Lanark shall for the purposes of this Act be the convener of each of such three counties, and it shall not be obligatory upon, but only permissive to, the trustees of such counties to divide them into districts for the purpose of managing the highways under their control, or for any other purposes under this Act. A certified copy of the list of commissioners of supply of the county of Lanark, made up as before mentioned, shall be delivered as above provided to the county road clerk of each of such three counties, and each commissioner of supply whose name appears upon such list shall be a county road trustee in such of these three counties in which he may have the qualification of a commissioner of supply, but subject to the provision that no factor whose name appears on such list shall be entitled to act or vote except in the absence of the proprietor.

A.D. 1878.  
County of Lanark to be deemed and taken to be three counties in the sense of this Act.

**93.** Upon the expiration of six months after the commencement of this Act in the county of Dumbarton, the bridges and rights of ferry over the River Leven, at the ferries of Balloch and Bonhill respectively, and the pontages or duties leviabie thereat, shall vest in the county road trustees of that county, and those bridges shall be maintained and managed by them, and the right of the proprietors of the said bridges and ferries to levy such pontages or duties shall thereafter cease; and the said county road trustees shall, at the said date of vesting, pay to such proprietors respectively the values of the said bridges, rights of ferry, pontages, and duties as at the date of the commencement of this Act in the said county, with interest at the rate of five per centum per annum from and after the said date of commencement until payment, under deduction of the net proceeds of such pontages or duties during the said period of six months, of which the said proprietors shall keep an account; and such values shall, failing agreement, be determined in the option of the said proprietors respectively by arbitration, or by jury trial, conducted in either case in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, and that Act, so far as the same regulates procedure with respect to arbitrations or jury trials, is incorporated with this Act for the purposes of this section, and

As to certain bridges and ferries in Dumbarton-shire.

8 & 9 Vict.  
c. 19.

A.D. 1878. in construing the clauses of that Act so incorporated, with reference to this Act, the expression "the Special Act" means this Act; the expression "the Promoters of the Undertaking" means the said county road trustees; the word "lands" means the said bridges, rights of ferry, pontages, and duties; and the word "compensation" means the values of such bridges, rights of ferry, pontages, and duties respectively as at the date of the commencement of this Act in the said county, but shall not include any allowances in respect of compulsory purchase or sale. The values so ascertained and determined shall be provided for by the said county road trustees as follows; that is to say,—One half thereof in the same manner as is by this Act provided with respect to road debts; and the other half by means of the pontages or duties levied at the said bridges as specified in the existing tables of charges, but subject to the modifications thereof allowed prior to the commencement of this Act in the said county, and those pontages and duties shall be levied by the said trustees until the moneys which they shall have borrowed in terms of the provision herein-after contained so far as required for the purpose of paying such last-mentioned half to the said proprietors with interest thereon, together with one half of the expense of maintaining the said bridges, and the whole expense of collecting the said pontages and duties shall have been paid and discharged out of such pontages or duties, whereupon the said bridges shall become highways, and be free of toll. The said county road trustees may borrow the whole or any part of the money required for paying the said values and interest to the said proprietors on the security of the said pontages or duties, and of the assessments by this Act authorised, or any of them.

Transfer of undertaking of city of Edinburgh Road Trust to Corporation of the city. Property vested. Deeds, &c. to be valid. Officers.  
25 & 26 Vict. c. liii.

**94.** From and after the second Monday of December one thousand eight hundred and seventy-eight, the sections of the Edinburgh Roads and Streets Act, 1862, from four to twenty-two, both inclusive, and from seventy-nine to eighty-six, both inclusive, shall be and the same are hereby repealed, and the body of trustees thereby constituted under the name and description of the city of Edinburgh Road Trust shall thereon cease to exist; and from and after the said date the whole powers and authorities of every kind vested in the trustees under the said Act, or conferred on them by or under authority of any other Act of Parliament, shall be and the same are hereby transferred to and vested in the Town Council of the city of Edinburgh, who shall thenceforward, as part of the ordinary business of the town council, and according to the rules by which the conduct of such business is regulated, including the mode of estimating expenditure, and of keeping, making up,

auditing, certifying, and publishing of accounts, exercise the whole powers and authorities of the said road trust, and perform the whole duties and obligations, and fulfil all contracts incumbent on the said trust; and in construing the said Act, and any other Act in which the said road trustees are named, the expression “the trustees,” or any other expression referring to the said road trustees, shall be read as if the “Town Council of Edinburgh” had been inserted instead thereof. And the whole lands, houses, assessments, duties, claims, demands, rights, properties, and effects of every kind, heritable or moveable, belonging to or vested in or leviable or exigible by the said road trust, or any person on their behalf, under and in virtue of the said Roads and Streets Act (but subject to any liabilities to which the same are legally liable), shall from and after the aforesaid date become vested in and belong to and be leviable and exigible by the Town Council of Edinburgh for the purposes of the said Act, as fully and effectually to all intents and purposes as if the same had been formally and particularly conveyed to and vested in them, with full power, right, and authority to the Town Council of Edinburgh to levy, adjudge, sue for, and recover the same. And all bonds, obligations, assignments, leases, grants, conveyances, or other deeds or securities legally made or granted to or by the said road trust or any person under authority of the said Act shall be good, valid, and effectual to all intents and purposes; and all debts contracted, and all lawful contracts entered into by the said road trust or any person on their behalf by virtue of the said Roads and Streets Act, or any other Act, shall remain valid and binding upon the town council of Edinburgh under authority of this Act. And it shall be lawful for the Town Council of Edinburgh to continue any of the officers employed by the said road trust or to make such provision for their retirement or otherwise out of the rates under the said Edinburgh Roads and Streets Act, 1862, or this Act, as may be by them considered just and expedient: Provided always, that, notwithstanding the adoption of this Act or its becoming operative within the county of Edinburgh, the provisions of the said Edinburgh Roads and Streets Act, 1862, not hereby specially repealed, shall, in addition to the provisions of this Act and in so far as not inconsistent with this Act, apply and continue to be applicable to the burgh of Edinburgh as if the said burgh were the district defined in the said Edinburgh Roads and Streets Act, 1862.

A.D. 1878.

25 & 26 Vict.  
c. liii.

25 & 26 Vict.  
c. liii.

25 & 26 Vict.  
c. liii.

**95.** The county road trustees of the county of Elgin may, at any annual general meeting called in terms of the Elgin and Nairn Roads and Bridges Act, 1863, resolve forthwith to pay off the balance remaining due of the sum of money borrowed for the

As to a  
bridge in  
Elginshire.  
26 & 27 Vict.  
c. ccxiv.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. purposes of the bridge over the River Findhorn, near Dalvey, and if they shall so resolve, they shall add the sum required to pay off such balance to the amount required to be raised in the ensuing year for the maintenance, repair, and management of roads, highways, and bridges within the said county, and shall assess therefor accordingly; and as soon as the said balance has been paid, it shall be deemed that the whole sums of money borrowed for the purposes of the said bridge, and the interest thereon, have been fully paid and extinguished within the meaning of the thirty-seventh section of the Elgin and Nairn Roads and Bridges Act, 1863.

26 & 27 Vict.  
c. cxxiv.  
Provision as  
to adoption  
of Act in the  
county of  
Haddington.

**96.** In the event of this Act being adopted in the county of Haddington, or otherwise coming to have effect therein, the same shall be subject to the following provisions:

(1.) On the application of the local authority of any burgh within the said county, the road trustees of the said county and such local authority may, at the time this Act is adopted or comes to have effect therein as aforesaid, or at any time thereafter, fix and determine that the area of such burgh for the purposes of this Act shall not be the area thereof for police purposes, but shall be such lesser area as they may fix and determine; and in case of difference between the trustees and such local authority, the sheriff of the said county, on application made to him by either of the parties, and after giving such notices as to him may appear proper, shall adjudicate on the matter, having regard to the area of such burgh as fixed and defined by the Haddingtonshire Roads Act, 1863, and to all the circumstances of the case, and the decision of the sheriff shall be final:

26 & 27 Vict.  
c. cxxv.

(2.) At any time, but not earlier than ten years after the date when the area of any burgh for the purposes of this Act has been fixed and determined as aforesaid, the trustees and the local authority of any such burgh may revise the boundaries of such area, and may agree that the area for police purposes of such burgh, or such other lesser area as they may fix and determine, shall be the area of such burgh for the purposes of this Act, and in case of difference the sheriff, on the application of either party, shall adjudicate on the matter in manner before provided, and his decision shall be final:

(3.) Until the area of any burgh within the said county for the purposes of this Act is fixed and determined under the provisions of this section, the boundaries of such burgh for the purposes of this Act shall be those for police purposes.

**97.** Notwithstanding anything in this Act contained, the Ayr Bridge Act, 1877, and the powers of taking tolls thereby conferred, shall continue in force until the first day of November one thousand eight hundred and ninety-seven, or until such earlier time as the bridge by that Act authorised to be constructed shall, in manner therein directed, be declared free from toll, and no longer; and from and after the time at which this Act is adopted, or commences to have effect, in the county of Ayr, the persons who then are the Trustees for carrying the Ayr Bridge Act, 1877, into execution shall continue to act as such Trustees so long as the last-mentioned Act shall continue in force, and, after that Act shall cease to be in force, the said bridge shall, subject to the provisions of this Act, be vested in and maintained and managed by the local authority of the burgh of Ayr.

A.D. 1878.  
Ayr Bridge Act, 1877, reserved.  
40 & 41 Vict. c. lxvi.

40 & 41 Vict. c. lxvi.

**98.** The sums of money borrowed under the Forfarshire Roads Act, 1874, before the commencement of this Act, in the county of Forfar, shall not be included in the list of debts made up under the provisions of this Act, but every sum so borrowed shall (so far as unpaid) be held to be a debt of the particular district or burgh by which the money was borrowed, and shall be a first charge on the assessment levied under this Act, or any other Act or Provisional Order confirmed by Parliament, for the maintenance and repair of the roads, highways, or bridges, within such district or burgh, and the creditors in such debts shall have over such assessment the same rights which creditors under this Act have over the assessment for the payment of debt, and the bonds, mortgages, or other securities in evidence of such debts shall be held to be of the same nature and be dealt with in the same way as the bonds, mortgages, or other securities, as the case may be, granted under this Act; and considering that by the Forfarshire Roads Act, 1874, Kirriemuir is, for the management, maintenance, and repair of the roads within it, separated from the county of Forfar, Kirriemuir shall for all the purposes of this Act be held to be a burgh.

Provisions for debts contracted under the Forfarshire Roads Act, 1874.  
37 & 38 Vict. c. cxlvii.

37 & 38 Vict. c. cxlvii.

**99.** Nothing in this Act contained shall prejudice or affect any Act by or under which the turnpike roads and statute labour roads within the burgh of Dundee have been transferred to the local authority of such burgh.

Saving of Acts transferring roads to the local authority of the burgh of Dundee.

**100.** Nothing in this Act contained shall affect or prejudice the right of the magistrates and town council of the burgh of Burntisland to the annuity of two hundred pounds secured to them by the North British Railway Company under an agreement between the said magistrates and town council and railway company, dated the sixteenth and eighteenth days of September one thousand eight

Saving annuity by North British Railway Company to burgh of Burntisland

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. hundred and seventy-two, and confirmed by the North British  
 36 & 37 Vict. Railway Act, 1873.

c. ccix.  
 Saving as to  
 Leith  
 harbour.

**101.** Nothing in this Act contained shall be construed to relieve the Commissioners for the Harbour and Docks of Leith of any statutory obligation incumbent on them in regard to the making, maintenance, or repair of roads, streets, quays, or bridges within the burgh of Leith, and the exemption to which such commissioners are entitled under the Acts of the eleventh and twelfth Victoria, chapter one hundred and twenty-three, and of the twenty-sixth and twenty-seventh Victoria, chapter sixty, shall remain in force and shall extend and apply to all assessments under this Act.

11 & 12 Vict.  
 c. cxxiii.  
 26 & 27 Vict.  
 c. 60.

Continuing  
 in force pro-  
 visions of  
 local Acts  
 with respect  
 to buildings,  
 &c. on sides  
 of roads.

**102.** Notwithstanding the herein-before contained enactments that the local Acts now in force relating to turnpike roads and statute labour roads shall cease to be in force at the respective times herein-before provided, all the provisions of such Acts which provide that houses, walls, or other buildings shall not be erected, or that new enclosures or plantations shall not be made within certain distances therein specified from the centre of such respective roads which are greater than the distance prescribed by section ninety-one of the Act first and second King William the Fourth, chapter forty-three, applied by this Act to those roads, are hereby continued in force; and the trustees, boards, district committees, and burgh local authorities having the management of such respective roads, and their officers, may enforce such provisions in the same manner as the trustees having the management of such respective roads under such local Acts and their officers might now enforce the same.

1 & 2 W. 4.  
 c. 43.

Powers to  
 trustees to  
 increase  
 assessments.

**103.** In counties having local Acts under which tolls and statute labour have been abolished or are not exigible, and the assessments for the maintenance and repair of the roads and bridges therein are payable one-half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same are imposed, but the rates at which such assessments may be imposed are limited to a maximum, it shall be lawful for the trustees of such counties, notwithstanding anything in such local Acts contained, to increase the rates beyond those specified in such local Acts, if it shall be found necessary or expedient so to do, for the purpose of effectually carrying out the provisions of the said local Acts.

*Byelaws.*

Byelaws.

**104.** The trustees may from time to time make, with respect to all or any highways within their jurisdiction, and, when made,



may alter or repeal byelaws for all or any of the purposes following; A.D. 1878.  
(that is to say,)

- (1.) For the general regulation of traffic on highways; and
- (2.) For prohibiting the use of any waggon, cart, or carriage, drawn by animal power, and having wheels of which the fellys or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon, cart, or carriage, as may be specified in such byelaws; and
- (3.) For prohibiting the use of any waggon, cart, or other carriage, drawn by animal power, not having the nails on its wheels countersunk in such manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and
- (4.) For prohibiting the locking of the wheel of any waggon, cart, or carriage, drawn by animal power, when descending a hill, unless it is locked in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and
- (5.) For prohibiting the erection of gates across highways except under regulations specified in such byelaws.

Penalties to be recovered summarily may be imposed by any such byelaws on persons breaking any byelaw made under this section: Provided, that no such penalty exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the penalty.

No byelaw shall be binding until it has been approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration.

*Miscellaneous.*

**105.** For the purposes of this Act, the signature of the chairman of the trustees or of the chairman of the board, or of the preses of any meeting of the trustees or of the board, or of the chairman or preses of any district committee to be appointed in terms of this Act, adhibited to any writing or document except as herein-after provided, shall be equivalent to the signatures of the whole trustees or members of the board, or of the whole members of such district committee present at a meeting thereof respectively; and the addition to such signature of the word "chairman" or "preses" shall be good primâ facie evidence that such signature is the signature of such chairman or preses, as the case may be, and that such writing or document is genuine and authentic.

Authentica-  
tion of  
documents  
relating to  
the execu-  
tion of Act.

A.D. 1878.

Minutes of trustees, &c. to be receivable in evidence.

**106.** Any minute made of proceedings at meetings of the trustees, board, or district committee, if signed either at the meeting of the trustees, board, or district committee at which such proceedings took place, or at the next ensuing meeting of the trustees, board, or district committee by any person purporting for the time being to be the chairman or preses of such meeting, shall be receivable in evidence of such proceedings in all legal proceedings without further proof; and until the contrary is proved every meeting of the trustees, board, or district committee, where minutes have been so made of the proceedings shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified.

Actions now pending transferred to trustees under Act.

**107.** No action, prosecution, or other proceeding by or against the trustees or other persons acting before the commencement of this Act, under the authority of any general or local Act, in relation to the roads, highways, and bridges vested in the county road trustees or burgh local authority, as the case may be, under this Act, shall cease or be discontinued or be prejudicially affected by this Act, but the same shall continue and take effect both in favour of and against the said county road trustees or burgh local authority, as the case may be, under this Act, in the same manner in all respects as the same would have continued and taken effect in relation to the trustees or other persons under any of the said general or local Acts, if this Act had not been passed: Provided, that if any question shall arise as to whether any action, prosecution, or other proceeding should be carried on at the instance of or against the county road trustees or the burgh local authority, the same may be disposed of incidentally, and without any action of transference or other separate proceeding by the court or judge before whom such action, prosecution, or proceeding depends.

Former trustees to account for moneys and deliver up books.

**108.** All persons acting or who have acted under any of the general or local Acts in force at the commencement of this Act as trustees of any of the turnpike roads, statute labour roads, highways, or bridges within the county, or as clerks or officers of such trustees, who shall, at the commencement of this Act, have in their custody, power, or possession any moneys collected by virtue of such Acts, or any books, deeds, papers, writings, property, or effects belonging to the said turnpike or statute labour trusts respectively, or relating to the execution of such Acts, shall pay and deliver up the same to the county road trustees, or to such person as they shall appoint to receive the same, who shall hold them, and be liable to pay them over or make them forthcoming, subject to the provisions of this Act.

**109.** All books containing the accounts and proceedings of the trustees or other persons who have acted under any of such Acts shall and may be given in evidence in all claims, prosecutions, appeals, actions and proceedings whatsoever under this Act, in the same manner as they might have been used under the said Acts.

A.D. 1878.  
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Books of former trustees to be evidence.

**110.** A trustee or member of a board, or district committee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, shall not be subject individually to any action, prosecution, or other legal proceeding; and the trustees may apply any moneys from time to time coming into their hands for the purpose of paying any expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of the powers granted by this Act to them.

Trustees not to incur personal liability.

**111.** If and while any trustee—

- (1.) Holds any office or place of profit under this Act; or
- (2.) Participates in the profits of any work done; or
- (3.) Is concerned in or participates in the profit of any contract entered into under this Act;

Trustees not to hold any office of profit or participate in profits of any contract.

Such person shall be disqualified from acting as a trustee, subject to the exceptions following; that is to say,

(a.) A trustee shall not be disqualified by reason of his being a shareholder in any joint stock or incorporated company entering into any contract with or supplying any article by order of the trustees or any board or any district committee; and

(b.) A trustee shall not be disqualified by reason of his being interested in any sale, feu, or lease of any lands, or any sale of materials for making or repairing roads, or any loan of money to the trustees.

Nevertheless a trustee or member of a board or district committee shall not be entitled to vote in respect of any contract with or any supply of articles by order of the trustees, board, or district committee, where such contract is entered into with or such articles are supplied by any company in which he is a shareholder, or in respect of any question connected therewith, or in respect of any such sale, feu, lease, or loan as herein-before mentioned; and if he does so vote his vote shall not be counted, and he shall incur for each time when he so voted a penalty not exceeding twenty pounds.

**112.** No person holding any office under this Act shall directly or indirectly participate in the profits of any work done by order

No person holding office

A.D. 1878. of, or be concerned in or participate in the profit of any contract entered into with, or any supply of articles made to the trustees, board, or any district committee, under the penalty of one hundred pounds; and it shall be in the option of the trustees, board, or district committee, and competent to them, to render any contract null and void, in the profit of which any such person has participated or may participate.

Trustee may act as sheriff or justice. **113.** No trustee shall be disqualified from acting as a sheriff or justice of the peace in the execution of this Act, by reason of his being such trustee.

Moneys to be lodged in bank. **114.** All moneys received by or on behalf of the trustees or the board under the authority of this Act shall, on the receipt thereof, be paid by the person receiving the same into an account to be kept in name of the trustees or of the board with some incorporated or joint stock bank or branch thereof, to be for that purpose appointed by the board.

Cheques on bank account of trustees or board. **115.** All cheques on the bank accounts kept by the trustees or board shall be signed by one of three members of the board appointed by it for the purpose, and by the treasurer; and no cheques shall be drawn on such accounts for any other purpose than the payments which shall from time to time be authorised by the trustees or the board.

Cheques on bank account of district committee. **116.** All sums passed by the trustees or the board to the account of any district committee, or collected on behalf of a district committee, shall be respectively paid into an account to be kept in name of the district committee with an incorporated or joint stock bank or branch thereof to be appointed by the board, and all cheques on such account shall be signed by one of three members of the district committee appointed by it for the purpose, and the treasurer of the district committee.

Execution of bonds and other securities. **117.** All bonds, mortgages, debentures, or other securities for money borrowed by the trustees, and all dispositions and conveyances of property belonging to the trustees, shall be signed by two of the trustees being members of the board and by the clerk except where otherwise expressly provided; and the clerk shall keep a register of all bonds, mortgages, debentures, or other securities granted by the trustees under this Act, and of the transfers thereof.

Mortgages to be personal estate. **118.** All certificates, bonds, mortgages, debentures, or other securities granted under the authority of this Act, and all money advanced and lent on the security of any assessment leviable under this Act, shall be moveable or personal estate, and transmissible as such.

**119.** All moneys received by the trustees on account of assessments or penalties, or otherwise, for the application of which no special provision is made in this Act, shall be applied as follows : A.D. 1878.  
Application  
of moneys  
not other-  
wise appro-  
priated.

- (1.) In payment of the salaries and allowances of officers and servants, and the general expenses of management of the trust :
- (2.) In payment of the expense of maintaining and repairing the several highways :
- (3.) In payment of interest on the debts affecting the highways, valued and allocated as herein-before provided, and thereafter towards payment of the principal of such debts.

**120.** The accounts of the trustees shall be balanced annually on the fifteenth day of May, and shall be audited by an auditor appointed by the sheriff by any writing under his hand. The accounts as audited shall be laid before the next annual general meeting of the trustees. Audit of  
accounts.

**121.** The trustees of counties and local authorities of burghs shall once a year, at such time and in such form as the Secretary of State may direct, make a report as to their income and expenditure and such other matters as the Secretary of State may direct, and such report shall be laid before both Houses of Parliament. Annual  
reports.

**122.** From and after the commencement of this Act in any county, the Act passed in the eighth and ninth years of the reign of Her present Majesty, chapter forty-one, and the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, except the sections thereof incorporated herewith as after mentioned, shall cease to have effect therein ; provided that nothing herein contained shall affect anything duly done or suffered, or any right or liability acquired, accrued, or incurred, or any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment contained in either of the last-mentioned Acts, or in any other Act which, from and after the commencement of this Act in any county, shall cease to have effect therein : Provided also, that until the fifteenth day of May or twenty-sixth day of May, as the case may be, following the commencement of this Act in any county where such commencement shall happen before the year one thousand eight hundred and eighty-three, and otherwise until the first day of June one thousand eight hundred and eighty-three, all provisions for levying, collecting, and recovering toll duties, statute labour conversion money, bridge money, and other moneys of whatever kind, for managing, maintaining, and repairing roads,

A.D. 1878.

bridges, and highways situated or partly situated in such county or in any burgh therein, and also all provisions against persons evading or attempting to evade payment of such toll duties and other moneys, shall continue in full force and effect, and may be put in operation by the trustees or burgh local authority under this Act, as the case may be, in the same manner as they might have been put in operation by the trustees under the other Acts mentioned in this section.

Incorporation of parts of General Turnpike Act.  
1 & 2 W. 4.  
c. 43.

**123.** The following sections of the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, viz., sections eighty, eighty-one, eighty-three, eighty-four, eighty-five, sections eighty-seven to ninety-two, both inclusive, section ninety-four, and sections ninety-six to one hundred and eight, both inclusive (the enactments whereof are contained in Schedule C. to this Act annexed), in so far as the same are not inconsistent herewith, shall be and are hereby incorporated with this Act, and, from and after the commencement of this Act in any county, shall extend and apply to all the highways made or to be made within such county, and, except in so far as inconsistent with the provisions of any general or local police Act in force therein, within the burgh or burghs situated or partly situated within the same; and in the construction of the aforesaid sections of the said Act, with reference to this Act, the expression "trustees under any Turnpike Act," or words having the like import, and the expression "turnpike roads" shall mean and apply to the trustees of counties and local authorities of burghs under this Act, and the roads, highways, and bridges placed under their management by this Act, as the case may require, in so far as such application shall not be excluded by the context or any of the provisions of this Act; and where notice is required to be given "on the two nearest toll bars," it shall be sufficient if it is given once in two newspapers circulating in the county or burgh, as the case may be: Provided, that it shall not be lawful for the trustees, or local authority, as the case may be, or any one authorised by them, under the powers conferred by the eightieth section of the recited Act, to carry away any materials to be used by them for any purpose whatsoever from any place beyond the county or burgh, as the case may be, or to a greater distance than three miles from the place where such materials have been obtained, unless satisfaction shall be made for the same in the manner provided in said section in the case of stones to be used for building.

Recovery and application of penalties.

**124.** All penalties under this Act or the enactments incorporated herewith or continued in force hereby may be recovered,

together with the expenses of process, at the instance of the procurator fiscal, or of the clerk of the trustees, or of the clerk of the burgh local authority, as the case may be, upon the testimony of one or more credible witnesses, before the sheriff or any justice of the peace of the county or magistrate of the burgh, as the case may be, in which the same shall have been incurred, under the provisions of the Summary Procedure Act, 1864; and all the jurisdictions, powers, and authorities necessary for this purpose are hereby conferred on sheriffs and justices of the peace, and magistrates of burghs, and their decision shall be final, save only that the provisions of the Summary Prosecution Appeals (Scotland) Act, 1875, shall apply to the same.

A.D. 1878.

27 & 28 Vict.  
c. 53.

38 & 39 Vict.  
c. 62.

Every prosecution shall be begun within six calendar months after the penalty shall have been incurred and not afterwards: Provided, that this shall not apply to any proceedings for the recovery of assessments levied under this Act.

It shall be lawful for any person acting in the execution of this Act, and such other person as any such person shall call to his assistance, or for any person seeing any offence committed against this Act, without any warrant or authority other than this Act, *brevi manu*, to seize and detain any person whose name and place of abode are unknown, and who shall commit any such offence, and take such person without delay before the sheriff or any neighbouring justice of the peace for the county or magistrate of the burgh, as the case may be, where the offence shall have been committed or where such offender shall be seized and apprehended, who shall forthwith examine and discharge or commit such person till caution *de judicio sisti* be found, as the case may seem to require.

Every penalty imposed and recovered under this Act shall be paid to the clerk of court, and by him shall be accounted for and paid to the treasurer of the trustees or of the burgh local authority, as the sheriff or justice of the peace or magistrate shall direct.

Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff or justice of the peace or magistrate.

Every person found liable in any penalty recoverable summarily under this Act shall, failing payment thereof, and expenses, immediately or within a specified time, as the case may be, be liable to be imprisoned for a term not exceeding sixty days; and the conviction and warrant may be in the form No. 3 of Schedule K. of the Summary Procedure Act, 1864.

27 & 28 Vict  
c. 53.

A.D. 1878.

SCHEDULES.

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Section 68.

SCHEDULE (A.) No. 1.

I [*A.B.*, chairman of the county road trustees of the county of \_\_\_\_\_, or provost or chief magistrate of the burgh of \_\_\_\_\_, as the case may be], in terms of the Roads and Bridges (Scotland) Act, 1878, certify that [*name and designation of creditor*] is a creditor in turnpike road debt [*or statute labour debt, or, as the case may be*] in respect of moneys lent to or for behoof of [*specify the particular trust in the case of turnpike debt, and the district or parish in the case of statute labour debt*], valued at the sum of \_\_\_\_\_, as at the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and which [*or whereof the sum of \_\_\_\_\_, as the case may be*] has been allocated on the county of \_\_\_\_\_ [*or burgh of \_\_\_\_\_, as the case may be*], all in terms of the provisions of the said Act.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.  
(Signed) *A.B.*

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Section 68.

SCHEDULE (A.) No. 2.

I [*name and designation of cedent*] transfer to [*name and designation of assignee*], his heirs, executors, and assignees my whole right and interest under this certificate.

[*To be signed and dated by the cedent.*]

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Section 73.

SCHEDULE (A.) No. 3.

I [*name and designation of creditor*] hereby discharge the debt specified in this certificate with all interest thereon.

[*To be signed and dated by the creditor.*]

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SCHEDULE (B.) No. 1.

A.D. 1878.

Section 75.  
By virtue of the Roads and Bridges (Scotland) Act, 1878, we, two of the county road trustees of the county of \_\_\_\_\_, and the clerk of the said trustees, acting under the said Act, as representing the said trustees [*or the provost, or chief magistrate, as the case may be*], and clerk of the local authority of the burgh of \_\_\_\_\_, acting under the said Act, as representing the local authority of the said burgh,] grant us to have borrowed and received from [*name and designation of lender*] the sum of \_\_\_\_\_ pounds for the payment of valued road debt allocated on the county of \_\_\_\_\_ [*or burgh of \_\_\_\_\_ as the case may be*] under the provisions of the said Act. In consideration whereof we assign to the said [*name of lender*], his heirs, executors, and assignees, all the assessments to be raised and paid within the said county [*or within the said burgh, as the case may be*] for the payment and extinction of debt under the provisions of the said Act, in security of the repayment of the said sum of \_\_\_\_\_ pounds, and of the interest thereof after the rate of \_\_\_\_\_ pounds per centum per annum from the \_\_\_\_\_ day of \_\_\_\_\_ until payment, which sum is to be repayable, with the interest at the rate aforesaid, as follows; [*state the terms of repayment according to the arrangement*]. In witness whereof [*insert testing clause in common form*].

SCHEDULE (B.) No. 2.

Section 75.

I [*name and designation*], in consideration of the sum of \_\_\_\_\_ pounds, transfer to [*name and designation*], and his heirs, executors, and assignees, an assignation in security, numbered [*insert the number of the assignation*], and dated [*insert date*], granted by the trustees of the county of \_\_\_\_\_ acting under the Roads and Bridges (Scotland) Act, 1878, [*or by the local authority of the burgh of \_\_\_\_\_, as the case may be*], for [*insert the stipulated annual payment and duration thereof*], from the \_\_\_\_\_ day of \_\_\_\_\_. In witness whereof [*insert testing clause in common form*].

A.D. 1878.

SCHEDULE (C.)

Section 123. SECTIONS OF 1 & 2 WILL. 4. c. 43. REFERRED TO IN THE FOREGOING ACT.

Power to get materials.

LXXX. And be it enacted, that it shall be lawful for the trustees of any turnpike road, or any person authorised by them, to search for, dig, and carry away materials for making or repairing such road and the footpaths thereof, or building, making, or repairing any toll-house, bridge, or any other work connected with such road, from any common land, open uncultivated land, or waste, or to deposit mud or rubbish thereon, without paying any surface damages, or any thing for such materials, except for stone to be used for building, and to carry the same through the ground of any person, such trustees or other persons authorised by them filling up the pits or quarries, levelling the ground wherefrom such materials shall be taken, or fencing off such pits or quarries so that the same shall not be dangerous to any person or cattle, and paying for or tendering the damage done by going through and over any inclosed or arable lands for or with such materials, mud, or rubbish, such damages to be ascertained as herein-after mentioned; and also that it shall be lawful for such trustees and other persons authorised by them as aforesaid to search for, dig, and carry away any such materials in or out of the inclosed land of any person where the same may be found, and to land or carry the same through or over the ground of any person (such materials not being required for the private use of the owner or occupier of such land, and such land or ground not being an orchard, garden, lawn, policy, nursery for trees, planted walk, or avenue to any house, nor inclosed ground planted as an ornament or shelter to a house, unless where materials have been previously in use to be taken by the said trustees), making or tendering such satisfaction for stones to be used for building, and for the surface damage done to the lands from whence such materials shall be dug and carried away, or over or on which the same shall be carried or landed, as such trustees shall judge reasonable; and in case such trustees and the proprietor or occupier of such lands shall differ as to the amount of such payments and damages as aforesaid, it shall be competent to the sheriff or justices of the peace for the shire wherein the place from whence such materials shall have been taken, or on which the same shall have been landed or carried, shall be situate, on the application of either party, with an induciæ of six days, to hear and determine all questions as to the amount of such payments and damages, and the expenses attending the same: Provided always, that before taking such materials from any inclosed land from which the same shall not previously have been in use to be taken, fourteen days previous notice in writing, signed by two trustees, shall be given to or left at the usual residence of the proprietor and occupier of the land or quarry from which it is intended to take the same, or his or her known agent, to appear before the sheriff or any two justices of the peace acting for the shire where the said lands are situate, to show cause why such materials shall not be so taken; and in case such proprietor, occupier, or agent shall attend pursuant to

Satisfaction.

Notice to be given before materials are taken from inclosed lands.

such notice, or shall neglect or refuse to appear (proof on oath in such case being duly made of the service of such notice), such sheriff or justices shall authorise or prohibit the trustees to take such materials, or make such order as they shall think fit. A.D. 1878.

LXXXI. And be it enacted, that it shall not be lawful for any person to take away any materials which shall have been procured or provided or used for the repair or use of any turnpike road, or to take any materials out of any quarry which shall have been opened by any turnpike trustees for the purpose of getting materials for any turnpike road, so as to interrupt or interfere with the workings carried on by such trustees; and every person so offending shall for every such offence forfeit and pay any sum not exceeding five pounds. Penalty on taking away materials provided for repairing turnpike roads.

LXXXIII. And be it enacted, that it shall be lawful for the trustees of any turnpike road to make a road through the grounds adjoining to any ruinous or narrow part of any turnpike road (not being an orchard, garden, lawn, policy, planted walk, or avenue to any house, or nursery for trees) to be made use of as a public highway whilst the old road is repairing or widening, making recompense to the proprietor and occupier of such grounds for the damages they may thereby sustain; and in case such trustees and such proprietor or occupier shall differ as to the amount of such damages, it shall be competent to the sheriff or justices of the peace for the shire where such damages or any part thereof shall have been incurred, on the application of either party, with an *induciae* of six days, to hear and determine all questions as to the amount of such damages, and the expenses attending the same. Power to us adjoining ground as a temporary road.

LXXXIV. And be it enacted, that it shall be lawful for the trustees of every turnpike road to make sufficient side drains on any such road, with power to conduct the water therefrom into any adjoining land, ditch, or watercourse (such land not being the site of any house or garden) in such manner as shall be least injurious to the proprietor or occupier of such land; the said side drains to be maintained at the expense of the trustees. Trustees to make side drains.

LXXXV. And be it enacted, that it shall be lawful for the trustees of every turnpike road to make sufficient ditches along the side of any such road, provided that if the land is inclosed on the side of such turnpike road, such ditch shall be made on the field side of the fence, and also to make proper ditches and outlets from the said side ditches through any lands adjoining any such turnpike road (not being the site of any house or garden) in such manner as shall be least injurious to the proprietor and occupier of such land; and the occupier of such land (unless such land be uninclused and waste) shall be obliged in all time thereafter to keep clear such side ditches and other ditches or outlets, as well as all such ditches already made along the sides of any turnpike road, when so required by the said trustees or their surveyor; and in case the proprietor or occupier shall neglect or refuse to cleanse such side ditches or other ditches or outlets, when duly required by such trustees or surveyors, such trustees or surveyors are hereby empowered to cleanse such side ditches or other ditches or outlets, and levy the expense thereof from the occupier of such grounds, in the same manner as other penalties by this Act imposed: Provided always, that nothing herein contained shall prohibit any proprietor or occupier Trustees to make ditches.

A.D. 1878. from substituting, to the satisfaction of the trustees, any other equally effectual ditch or outlet in place of that constructed by the trustees.

Timber, stones,  
&c. left on  
roads may be  
seized.

LXXXVII. And be it enacted, that it shall be lawful for any trustee or surveyor of any turnpike road, or other person authorised by the trustees of any such road, *brevi manu*, to seize and carry off any timber, stone, dung, rubbish, or other matter or thing whatsoever laid or left upon any such road or footpath or on any side drain or ditch of such road, and to sell or otherwise dispose of the same as a forfeiture, in such manner as the trustees shall direct, unless such matter or thing shall be previously redeemed by the owner thereof by payment of the penalty in such case enacted: Provided always, that the proprietor or occupier of any lands or houses may lay down any materials for building or repairing any house or wall immediately adjoining any turnpike road, such materials occupying one fourth part of such road only, and such proprietor or occupier giving three days previous notice in writing to the clerk or surveyor of the road, and erecting such fence round such materials, and fixing and lighting lamps thereon, in such manner as the trustees may require.

Owners of  
adjoining lands  
to cut the  
hedges and  
branches of  
trees preju-  
dicing the  
road.

LXXXVIII. And be it enacted, that the owners or occupiers of the lands next adjoining to every turnpike road shall prune and trim their hedges, and cut them down to the height of six feet from the surface of the ground, and also cut, prune, or lop the branches of trees, bushes, and shrubs growing in or near such hedges or other fences adjacent thereto, (such fences, trees, bushes, or shrubs not being in any garden, orchard, policy, walk, or avenue to a house, nor any tree, bush, or shrub being an ornament or shelter to a house, unless the same shall hang over the road or footpath or any part thereof in such a manner as to impede or annoy any carriage or person travelling thereon,) in such manner that the turnpike road shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such turnpike road to the damage thereof; and that if such owner or occupier shall not, within ten days after notice given by the surveyor for that purpose, cut, prune, and trim such hedges, or cut, prune, or trim such branches of trees, bushes, and shrubs, in manner aforesaid, it shall and may be lawful for such surveyor and he is hereby required to make complaint to the sheriff or justices of the peace, who shall grant warrant to summon the occupier of such lands and the owner thereof, or his agent or factor in his absence, ten days after service, to appear and answer the said complaint; and if it shall appear to such sheriff or justices that such occupier or owner has not complied with the requisites of this Act in that behalf, it shall and may be lawful for such sheriff or justices, upon hearing the surveyor and occupier or owner of such land, or an agent authorised to appear for either of them, or in default of their appearance, upon having due proof of the service of such summons, and considering the circumstances of the case, to order such hedges to be cut, trimmed, and pruned, and such branches of trees, bushes, and shrubs to be cut, pruned, or trimmed, in such manner as may best answer the purposes aforesaid; and if the occupier of such lands shall not obey such order within ten days after it shall have been made, and he shall have had due notice thereof, he shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut, trimmed, and pruned, and the sum of twopence for every tree, bush, or shrub which shall be so directed to be cut, pruned, or

If neglected  
for ten days,  
surveyor may  
complain to  
the justices,  
who may order  
them to be cut.

Penalty for  
neglect after  
order of  
justices.

trimmed ; and the surveyor, in case of such default made by the occupier, shall and he is hereby required to cut, prune, and trim such hedges, and to cut, prune, or trim such branches of trees, bushes, and shrubs in the manner directed by such order ; and such occupier shall be charged with and pay, over and above such penalties, the expenses of such cutting, pruning, and trimming.

A.D. 1878.

LXXXIX. And be it enacted, that no person or persons shall be compelled, nor any surveyor permitted, by virtue of this Act, to cut or prune any hedge at any other time than between the last day of September and the last day of March, nor to cut, prune, or lop the branches of any ornamental trees (unless the same shall hang over the road or footpath or any part thereof so as to impede or annoy any carriage or person travelling thereon), if the proprietor or tenant of the lands shall become bound to pay the additional expenses which their remaining uncut or unlopped may occasion the said trustees in keeping any such roads in repair.

Time of cutting or pruning hedges.

XC. And be it enacted, that if any person shall fill up or obstruct any ditch at the side of any turnpike road, or any ditch used for conveying water from the said road, or any side drain thereof, or ditch or drain under the same, or shall encroach by making any dwelling-house or other building, or any hedge, ditch, or other fence, or in any other manner whatever, on any turnpike road, or shall make any drain, gutter, sink, or watercourse across, under, or upon, or shall turn or conduct any drain or water across, under, or upon, or in any way break up the surface of any turnpike road, without the consent in writing of the trustees of such road or of their surveyor, such person shall forfeit for every such offence a penalty not exceeding five pounds ; and it shall be lawful for the trustees of any such road to cause such dwelling-house or other building, hedge, ditch, or fence, drain, sink, watercourse, gutter, or other encroachment, to be taken down or filled up at the expense of the person so offending.

Penalties on persons making encroachments.

XCI. And be it enacted, that no houses, walls, or other buildings above seven feet high shall be erected without the consent of the trustees previously obtained in writing, and no new inclosures or plantations shall be made within the distance of twenty-five feet from the centre of any turnpike road, without prejudice always to any farther powers and authorities vested in any turnpike trustees thereanent by any local Act of Parliament, and no place out of which the trustees of any turnpike road have been in the use of taking materials shall, without the consent of the trustees previously obtained in writing, be in any way shut up or inclosed, under the penalty of five pounds for every such offence, and the expense of demolishing such house, wall, or building, or of removing such inclosure or plantation ; and the sheriff of the county and justices of the peace are hereby authorised and empowered, on application by any one of the turnpike trustees or their clerk, to order such house, wall, building, inclosure, or plantation to be pulled down or removed at the expense of the person erecting or making the same, or of the occupier or owner of the ground ; nor shall the inclosing of such place out of which materials shall have been taken as aforesaid preclude the trustees of any turnpike road from re-opening and using the same.

No houses, &c. to be erected on the sides of any turnpike road within the distance of twenty-five feet from the centre thereof, without consent of the trustees.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878.

Power to  
water roads.

XCII. And be it enacted, that it shall be lawful for the trustees of any turnpike road to cause the whole or any part thereof to be watered, and for that purpose to take water from any pond, stream, or source, with the consent of the owner thereof, or other persons interested therein, and to dig and make ways and passages and erect pumps and engines for such purpose, and to make such compensation as may be agreed upon between the said trustees and such owners or persons as aforesaid.

Trustees shall  
erect parapets,  
&c. where  
necessary.

XCIV. And be it enacted, that the trustees of every turnpike road shall erect sufficient parapet walls, mounds, or fences, or other adequate means of security, along the sides of all bridges, embankments, or other dangerous parts of the said roads; and if they shall fail therein it shall be lawful for the procurator fiscal or any commissioner of supply for the shire in which the part of such road complained of is situated, such commissioner finding security to pay expenses of process if he shall fail in his action, to prosecute the trustees of any such turnpike road before the sheriff of the shire in which such road is situated, who shall judge and determine therein in a summary manner, and upon finding the complaint well founded, may compel the said trustees to remedy the matter complained of, and allow the prosecutor the expenses of process; but if such prosecution shall be found groundless, the private prosecutor shall be liable in expenses.

Penalty on  
persons com-  
mitting  
nuisances.

XCVI. And be it enacted, that if any person shall ride upon any footpath or causeway on or by the side of any turnpike road made or set apart for the use or accommodation of foot passengers, or shall lead or drive any horse, ass, mule, swine, or cattle, or carriage of any description, or any wheelbarrow, truck, or sledge, or any single wheel of any waggon, cart, or carriage apart therefrom, upon any such footpath or causeway; or shall wilfully obstruct or do or cause any injury or damage to be done to the same, or to the hedges, posts, rails, or fences thereof; or shall wilfully pull down or damage any bridge, wall, toll bar, or any building, fence, or erection made by the trustees of any turnpike road or repaired or repairable by them; or shall break, injure, remove, or displace any tools, trestles, bars, stones, materials, or other article whatsoever belonging to such trustees, or used on any such road under their authority; or shall haul or draw or cause to be hauled or drawn, upon any part of any turnpike road, any timber, stone, or other thing otherwise than upon a wheeled carriage, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon a wheeled carriage to drag or trail upon such road; or in ploughing or harrowing any adjacent uninclosed land shall turn any horse, plough, or harrow in or upon any such road or the side drains or ditches thereof; or shall, in or upon such road, or by the side or sides thereof, or in any exposed situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any beast, swine, calf, lamb, or other cattle; or if any person driving any carriage, cart, horse, or other beast on the said road, conveying any iron bar or rod, tree, wood, stone, basket, or pannier, or any other matter or thing, except hay and straw, suffer the same to project by more than thirty inches from the side of such horse or other beast, or more than one foot laterally beyond the wheels of such carriage, or so as in any manner to obstruct or impede the passage of any person, or any horse,

beast, or carriage travelling along such turnpike road; or if any person shall carry any timber or other article above twenty-five feet long on any cart or carriage not having more than two wheels; or if any hawker, higgler, gipsy, or other person shall pitch any tent or encamp upon or by the sides of any part of any turnpike road; or if any person occupying or using a blacksmith's shop, foundry, smelting house, iron or brass work, boiler-making work, glass work, soda, soap, or chemical work, shall not, by good and close shutters, every evening after it becomes twilight, or otherwise, bar and prevent the light from such shop shining into or upon the said road, and from being dangerous or detrimental to travellers; or if any person shall make or assist in making any fire or fires commonly called bonfires, or shall set fire to or let off or throw any squib, rocket, serpent, or other firework whatsoever within one hundred feet of the centre of such road, or shall discharge any gun, pistol, or other fire arms, fly kites, or bait or run for the purpose of baiting any bull, or play at football, tennis, fives, cricket, or any other game or games upon such road or on the side or sides thereof, or in any exposed situation near thereto, to the annoyance of any passenger or passengers; or if any person shall leave any waggon, cart, or other carriage whatever upon such road or on the side or sides thereof, without any proper person in the sole custody or care thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident for a longer time than may be necessary to remove the same, or shall not place such waggon or other carriage, during the time of loading or unloading the same, or of taking refreshments as near to one side of the road as conveniently may be, either with or without any horse or beast of draught harnessed or yoked thereto; or shall lay any timber, stone, hay, straw, dung, manure, soil, ashes, rubbish, or other matter or thing whatsoever upon such road or on the side or sides thereof, or the footpaths or causeways adjoining; or shall hang or lay any linen clothes or other such article on any hedge or fence of any such road; or shall suffer any water, filth, dirt, or other offensive matter or thing whatsoever to run or flow into or upon such road or footpaths from any house, building, erection, lands, or premises adjacent thereto, or if any person driving any pigs or swine upon such road shall suffer such pigs or swine to root up or damage such road, or the fences, hedges, banks, or copse on either side thereof respectively; or if any person shall after having blocked or stopped any cart, waggon, or other carriage in going up a hill or rising ground, cause or suffer to be or remain on such road the stone or other thing with which such cart or other carriage shall have been blocked or stopped; or if any person shall pull down, damage, injure or destroy any lamp or lamp post put up, erected, or placed in or near the side of any turnpike road, or toll house erected thereon, or shall extinguish the light of any such lamp; every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding fifty shillings over and above the damages occasioned thereby.

XCVII. And be it enacted, that if the driver of any cart, waggon, or other such carriage on any turnpike road shall ride on the shafts or in or on any other part of such carriage, without having and holding reins attached to each side of the bridle of each beast of draught drawing such cart or carriage, or shall at any time leave the same travelling on any such road without having some person to

Regulation of  
drivers.

A.D. 1878. — guide the beast or beasts of draught drawing the same, or shall allow to go at large any dog that may be attending him, or his waggon, cart, or other such carriage, or shall not chain or fasten the same to such waggon, cart, or carriage; or if the driver of any sort of carriage shall not keep to the left or near side of such road on meeting or on being overtaken by any other carriage or any rider, or shall wilfully prevent any other person passing him or his carriage; such driver shall for every such offence forfeit and pay a sum not exceeding five pounds over and above the damages occasioned thereby.

One driver may take charge of two carts.

XCVIII. And be it enacted, that if one person act as the driver of more than two carts, waggons, or other such carriages on any turnpike road, or if the hinder of two carts, waggons, or other such carriages, when under the care of only one person, shall be drawn by more than one horse, or if the horse of such hinder cart, waggon, or carriage shall not be attached by a rein to the back of the cart which shall be foremost, and follow in the same line therewith, the horse drawing such hinder cart not being permitted to be further from the foremost than six feet, the owner or driver of every such waggon, cart, or other carriage shall for each transgression in any of the points aforesaid forfeit and pay a sum not exceeding forty shillings.

Children not to drive carts, &c.

XCIX. And be it enacted, that no waggon or cart travelling on any turnpike road shall be driven by any person who shall not be of the full age of fourteen years, under a penalty for each such offence not exceeding forty shillings, to be paid by the owner of such waggon or cart.

Persons opening up or conveying water across the roads or causeways must repair them.

C. And be it enacted, that if the causeways and footpaths of any turnpike road or any part thereof shall be opened up by any person or persons, with leave of the said trustees, or otherwise having authority so to do, for the laying of pipes for water, gas, tunnels, or railroads, or for any other purposes whatever, and the same shall not be immediately thereafter repaired, renewed, and rendered completely sufficient and good by the person or persons opening up the same, to the satisfaction of the said trustees or their surveyor, then the said trustees or their surveyor shall have full power, and they are hereby authorised to execute the necessary repairs on the part or parts of such road or footpath so opened up, and to restore the same completely, and to charge the expense thereof against the person or persons opening up the same, which shall be ascertained by an account under the hands of the said trustees or a quorum of them, or of their clerk or surveyor; and if any damage shall happen to the public from the operations of the persons opening up the road as aforesaid, such persons shall be solely liable for the same, and be obliged to relieve the said trustees thereof and of all expenses attending the same; and in all cases where any injury shall arise to any turnpike road from any drain, conduit, pipe, water, matter, or thing whatsoever being conveyed across, in, under, or upon, or by any thing done upon any part of any such road, by any person having leave or otherwise entitled so to do, and such injury shall not be immediately repaired to the satisfaction of the trustees, they or their surveyor are hereby authorised to repair the same, and charge the expense thereof as aforesaid against the person occasioning the said injury, or for whose uses or purposes the thing occasioning the same shall be done or kept.



CI. And be it enacted, that if the surveyor of any turnpike road, or any contractor or other person employed on such road, shall lay on any part of any such road any heap of stones or other materials for the repair thereof, and shall permit the same to remain longer than necessary for the breaking and spreading of such materials; or shall lay on any such road any matter or thing, or shall knowingly permit to remain on any part of any such road any matter or thing, which may endanger the safety of any passenger; or shall dig any pit or make any cut on any turnpike road, without sufficiently fencing the same; such person shall for every such offence forfeit and pay a sum not exceeding five pounds over and above the damages occasioned thereby and expenses; and it shall be lawful for any person travelling along any turnpike road to prosecute for such sum, damages, and expenses in manner herein-after provided: Provided always, that it shall be lawful for any such surveyor, contractor, or other person to have on any such road, during daylight, any trestles or bars in any such manner as the trustees of such road may judge necessary to prevent interruption of the work during the repairing of the road, or to prevent carts or carriages from running in tracks injurious to the road: Provided always, that such trestles or bars shall at all times be placed in such manner as not to be more inconvenient to passengers than may be necessary to prevent interruption to the work, or to prevent carts or carriages from running in tracks injurious to the road.

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Surveyors, &c.  
not to leave  
nuisances on  
roads.

CII. And be it enacted, that if the proprietor or occupier of any lands adjacent to any turnpike road shall dig any pit or make any cut upon or within twelve feet of the side of any such road, and shall leave the same unfenced so as to be dangerous to travellers, and shall not fence the same when required so to do by any two of the trustees of such road, or the procurator fiscal of the shire within which the said pit or cut is situated, such proprietor or occupier shall forfeit and pay a sum not exceeding five pounds for every day such pit or cut shall continue to be unfenced beyond three days after notice shall have been given as aforesaid, and it shall be lawful, after such notice, for the said trustees or procurator fiscal to cause the same to be fenced at the expense of such proprietor or occupier.

Proprietors to  
fence pits made  
near the roads.

CIII. And be it enacted, that if any horse, cattle, ass, sheep, swine, or other beast of any kind shall be pastured, or left or permitted to remain, or found straying on any turnpike road or the sides thereof (except on such parts of any road as pass through or over any common or waste ground, or land not inclosed, or arable on both sides), the person so pasturing or leaving such beast, or permitting the same to remain, or the person having the charge of such beast, or the owner thereof if such person cannot be found, shall forfeit and pay a sum not exceeding five shillings for every such beast; and it shall be lawful for any trustee of such road, or the surveyor of such trustees, or any other person authorised by them, *brevi manu*, to seize and detain the same until such penalty and the expenses of process and proceedings shall be paid; and in case the said penalty and expenses shall not be paid within three days after notice of such detention shall be given on the two nearest toll bars on the said road where such animal shall be found, the said surveyor or other person shall sell the same, with the authority of the sheriff or any justice of the peace for the

No animal to  
be pastured on  
the roads.

[CH. 51.] *Roads and Bridges (Scotland) Act, 1878.* [41 & 42 VICT.]

A.D. 1878. shire, who are hereby empowered to grant such authority ; and after deducting the amount of the said penalty and expenses such surveyor or other person shall pay the surplus, if any, to the owner of such animal so detained.

Side ridges to be made in uninclosed lands.

CIV. And be it enacted, that every person in ploughing any uninclosed land adjoining any turnpike road shall make side ridges along the sides of such road of the breadth of twelve feet at the least, under a penalty not exceeding five pounds.

Gates to open inwards.

CV. And be it enacted, that no gate of any park, field, or inclosure whatsoever shall be made to open into or towards any part of any turnpike road, or of any footpath belonging thereto, or be suffered so to open except the hanging post thereof shall be fixed or placed so far from the centre of any part of such road as that no part of such gate shall when open project over any part of such road or of any footpath belonging thereto ; and the occupier of any park, field, or inclosure, having any gate opening outwards contrary to the meaning of this Act, shall, within six days after notice to him or her given, either personally or in writing, from the trustees of any turnpike road, or their surveyor, cause such gate to be hung so that no part of the gate when open shall project over any part of such road or of any footpath belonging thereto ; and if such occupier fail so to do, the surveyor of any such road shall cause the gate to be hung as herein-before directed, and charge the expense of making such alteration and hanging such gate against the said occupier, who shall, over and above such expense, forfeit and pay a further sum not exceeding five pounds for such neglect.

Weeds to be cut by trustees.

CVI. And be it enacted, that the trustees of every turnpike road shall cut or cause to be cut all weeds growing on the same or the sides thereof, when inclosed, at a proper season of the year, in order to prevent such weeds coming into seed ; and if they fail so to do for eight days after being required by the proprietor or occupier of the adjoining land, by notice in writing given to their clerk or surveyor, such proprietor or occupier may cut the same, and charge the expense thereof against the said trustees.

No windmill, &c. to be erected within 100 yards of the turnpike road.

CVII. And be it enacted, that no person shall hereafter erect any windmill, watermill, steam engine, or limekiln within the distance of one hundred yards from any part of any turnpike road under the penalty of five pounds for every day such windmill, watermill, steam engine, or limekiln shall continue, unless the same shall be so placed or screened as to prevent damage or detriment to any traveller on such turnpike road by frightening horses or otherwise ; nor shall any person hereafter place any skinner's washing pond within the distance of one hundred yards from any part of any turnpike road under a penalty not exceeding five pounds for every day any such nuisance shall continue : Provided always, that nothing herein contained shall be construed to render legal the erection, re-erection, or continuance of any windmill, watermill, steam engine, limekiln, or skinner's washing pond in any case where, by the common law, the same shall be a public or private nuisance.

Owners of waggons, carriages, &c. shall cause

CVIII. And be it enacted, that the owner of every waggon or cart, and also of every coach, postchaise, or other carriage, let either in the whole or in part to hire, shall paint in a straight line horizontally upon some conspicuous part

on the off or right side of his waggon or cart, and upon the panels of the doors of all such coaches, postchaises, or other carriages before the same shall be used upon any turnpike road, the Christian and surname and place of abode of such person, or the Christian and surname and place of abode of the principal partner or owner thereof, in large legible Roman letters, either of a dark colour upon a light ground or of a light colour on a dark ground, not less than one inch in height, with numbers beginning with number one where more of such carriages respectively than one shall belong to the same owner, and proceeding in regular progression, and shall continue the same thereupon as aforesaid so long as such waggon, cart, or other carriage shall be used upon any turnpike road; and every owner of any such waggon, cart, or other carriage using or allowing the same to be used upon any turnpike road without the names and descriptions painted thereon respectively as aforesaid, and every person driving the same, shall forfeit for every such offence a sum not exceeding forty shillings; and every waggon or cart, and every such coach, postchaise, or other carriage let for hire without the name, surname, and place of abode of the owner painted thereon as herein-before directed, or having the same or any part thereof covered or placed so as to be illegible, shall be liable to pay double toll duty; and every person driving any such waggon, cart, or other carriage who shall refuse to stop and permit the name to be read or uncovered by any person requiring him so to do, shall over and above forfeit for every such offence any sum not exceeding forty shillings.

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their names to  
be painted  
thereon.

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