

RIGHTS-OF-WAY IN BRAEMAR AND GLEN
TILT IN 1840-50.

A FEW years ago, when the Ben Uarns came into particular notice through the Cairngorm Club, Glen Ey was thus referred to:

"Glen Ey has been gradually shut up within present memory. Aucherrie, some two miles from Inverey, is now the uppermost residence, and that too of a keeper, but several miles higher up the ruins of houses are very apparent, where not a few present day Braemar residents were born. That the greater part at least of the glen was a right-of-way has, apart from this fact, been recently shown by an amateur philologist, and his discovery has been backed up by even more reliable evidence than that of an ancient place-name. All visitors to Glen Clunie know the lodge of that name, and readers of maps are familiar with Coirenaleirg, on the opposite side of the glen. Coirenaleirg is "the corrie of the pass," and a very shapely, as well as symmetrical corrie it is. But of what "pass" is it the corrie? When drovers came and went by the Cairnwell road, did they always take in Castle-town of Braemar in their route? They were too economical of time and energy for such a round, and so cut off Morrone at Coirenaleirg, and dropped into Glen Ey. This ancient drove route is forgotten save by a few, but so long as maps exist there will be record of its former use."

It appears, however, that more than half a century previously several Braemar rights-of-way (some of them now admitted to be such even by the proprietors), were closed. The date was 1852, and as the routes may be considered as within the special territory of the Cairngorm Club, it is well that the particulars, so far as now known, should be recorded in these pages. Doubtless the shutting up of the North Deeside road west of the Invercauld Bridge of Dee, the removal of the ferry boat, and

the closing of Glen Ey and the Coirenaleirg route were occasioned by the then policy of endeavouring to shut out the public at all hazards from deer forests. Thus wrote "Scotus":

"If you are acquainted with the western part of Aberdeenshire, you will remember that there is a country road both north and south of the Dee, in continuation of others from Aberdeen to Ballater, and that from the Bridge of Dee at Invercauld the north road passes not far from the mansion of Mr. James Farquharson, the carriage drive to which diverges from it. Now, what I have to complain of is that Mr. Farquharson has not only placed an ornamental gate and lodge at that part of the north road which continues from the Bridge of Dee, as if there began the approach to his mansion, but has gone the length of placing the gate under lock and key, thus depriving the public of both an unquestionable right to tread the public highway when they please, and the opportunity of viewing the grandest piece of rock scenery on the banks of the Dee. Visitors little know of what they are deprived by tamely submitting to the refusal almost uniformly given at the gate to any request to pass along the road. But this is not all. From time immemorial there has been a ferry boat for the convenience of persons wishing to cross the river from Castletown of Braemar to that part of the road lying opposite this much frequented village. But in order the more effectually to shut out the public from this road, and quite regardless of their convenience, this ferry boat has recently been taken off the water, in consequence of which anyone wishing to reach the opposite side or to view the linn of Quoich, must either make a circuit of six or seven miles there, and the same distance back, in all twelve or fourteen miles, or wade through the river at the risk of his life. Nor is this the only hardship occasioned by the withdrawal of the ferry boat. It entails no small amount of inconvenience and annoyance upon all travellers from Tomintoul and the north to Castletown. Many a poor man, after having trod the rough hill road from Tomintoul (twenty miles), and perhaps almost broken

down with fatigue, buoying himself up with the hope that he has reached the end of his journey, on arriving at the Castletown ferry, finds to his disappointment and dismay that the boat has been removed, and that, instead of being at the place of his destination, he has a further walk of six or seven miles ere he can rest his weary limbs."

Such was the complaint of a pedestrian who imagined that the laird of Invercauld was then the only offender of his class in Braemar. Earl Fife and his relative, Mr. James Duff, M.P., who then resided at Corriemulzie Cottage (which latterly was known as New Mar Lodge), were promptly shown to be equally guilty: "Let Mr. Scotus visit Colonel Farquharson's cave in Craig Neich, and he will be a little surprised to find himself surrounded by a gang of Mr. James Duff's preventives, who take their own modest humours for their employer's warrant, and unless Mr. Scotus run back at once, he will be threatened to be treated as a poacher or trespasser, and be brought before Laird Mactaggart. Let him proceed to view the ruins of the cottages of the exterminated inhabitants of Glen Ey, where I have often herded sheep, cattle, and horses, cut both hay and corn, and paid my part of money to repair its public roads and bridges. Through this glen there is one principal cart road which divides into three different roads: the one leading to Glen Clunie by Coire-nalerig; a second to Glen Shee by Alltanodhar and Glen Tatnich; the third to Strath Ardle, Glen Fernate, etc., by Glen Beg and Rie-na-Morrich and Alltanodhar. These are, and have been, as public roads as any leading between glens in any part of the Highlands of Scotland, and yet Scotus will find himself greatly annoyed if he attempt to traverse any of those now shut-up public paths. One of the exterminated inhabitants, a Mr. John Macintosh, came back to visit his old place of abode, and spend the night with his only remaining neighbour. After spending a pleasant night, John, with his collie, started down the road to Inverey, but was not prepared to meet with Mr. Duff's head keeper, who told him that little would make him drive collie's brains out at his own head,

and if he should ever presume to call back upon his old neighbour again, he would be brought before a magistrate and his poor collie shot. Let Scotus proceed with me to visit Glens Connie and Christie, both of which have a public footpath, and we will find ourselves entangled with the same kind of preventives, threatening to bring us before Magistrate Mactaggart in the event of our proceeding any farther. In conclusion, let Scotus inquire at any of the poor, intimidated inhabitants, and he will find that none of them in Corriemulzie are allowed to keep as much as a collie dog to turn their few cattle or hunt the deer from their corn."

The shutting up of Glen Lui Beg, the shortest route to the top of Ben Muich Dhui from Braemar, seems to have been attended with comparatively little protest in the North, though Edinburgh and London were indignant at the proceeding. Thus spoke *The Times* (July, 1846):

"The advice I give to tourists is to disregard all injunctions whatever, whether from innkeeper or gamekeeper, guide or grand duke, and proceed boldly by Glen Lui Beg by the shortest, best, and accustomed way. There is no right whatever to prevent this. It is an exercise of public right, established by immemorial usage, and expressly encouraged by the late Earl Fife, the proprietor."

The remarks of *The Scotsman* the following month were also particularly pointed, but nothing seems to have followed thereupon: "The tourist is now liable to be stopped at the entrance of the pass by keepers, who say they are acting under the instructions of an English duke, who is the lessee of the ground under the Earl Fife. . . . The guides in the neighbourhood have been intimidated, and refuse to conduct strangers through the forbidden ground. . . . At this moment several thousand tourists are loose over the land. They are climbing Ben Nevis or Ben Lomond; they are rambling among the Braes of Glen Coe or the banks of Loch Katrine. Are these all trespassers liable to pay some heavy penalty? Are they all breakers of the law, any one of whom may be singled

out for vengeance at the despotic will of some proprietor? We think it will be difficult to find the act of parliament or the decision which justifies such a supposition."

A Dumfries paper took up the matter at the instance of Grierson, after he had spent his memorable fortnight in Deeside in 1850, but from quite another standpoint. The reverend gentleman's remarks are naive, and well worth repeating:

"Before leaving home, having heard and read much of the extreme strictness of the Duke of Leeds in preserving his forest, I thought it might be as well to write to his Grace on the subject, lest after travelling some two-hundred and fifty miles, I should be foiled in my object. Accordingly I wrote respectfully intimating my intention, expecting that one or other of his people would be directed to reply. The Duke himself did so, and in terms becoming his high rank. Repeated letters passed between us, and I must say, in a spirit of condescension and reasonableness on his part that fully convinced me the public ought to be satisfied with his views on the subject [which barred the Glen Lui Beg route to Ben Muich Dhui]. That noblemen and gentlemen who pay enormously for these forests, should be careful to preserve them from illegal intrusion, is most natural; and I cannot see how any person can reasonably object to their doing so. With regard to Glen Tilt, the merits of that case are under litigation, and therefore I shall say nothing about it. But as for Mar Forest, it seems to me so very clear that I am convinced none who understand the case thoroughly will blame the Duke. How would any low-country proprietor or farmer like to have his fields traversed in all directions by the public? . . . These things considered, it astonished me not a little that any intelligent person should blame the Duke in this matter; and still more that, when civilly warned of their trespass, and directed to the lawful tracks by which the most interesting parts of the forest may be seen, they should yet persist in violating the rights of property. . . . About a quarter of a mile above the Linn of Dee, I had the luck to see the Duke of Leeds killing a

fine salmon with the rod. He was pretty deep in the river, with fishing boots, but managed the matter remarkably well *for a Duke*; and what I most admired was the gaffing of the fish by one of his two attendants. I never saw that nice and ticklish operation so neatly executed. I was within fifty yards of his Grace, with several of his very polite and courteous letters in my pocket, so that, had it not been for what many may consider a morbid aversion to thrusting myself into society so decidedly above me, I would have been induced to accost him, and congratulate him on his success."

Grierson also referred to the 1847 ascent of Ben Muich Dhui by the Lui Beg route (see the first volume of the Club Journal) and, as one would expect from the above opinions, had no sympathy with the learned professor who, "with some dozen or two of his pupils, armed with hammers and cudgels, *gallantly* stormed the pass of Glen Lui Beg in defiance of one or two keepers, who civilly requested them to ascend by the ordinary and lawful route. Perhaps they considered they had performed a mighty exploit in so doing, though I trust there are many who will be of a different opinion."

How shocked the parson would have been had he known that three days before he left Braemar two English University students had dared to go against the orders of the Duke of Atholl in Glen Tilt! While the Glen Tilt right-of-way case is familiar enough to the public the encounter of these gentlemen with the ducal proprietor deserves full notice here. Two Cambridge undergraduates thus told to *The Times* and *The Scotsman* in October, 1850, their peculiar experience:

"On Friday, August 30th, we shouldered our knapsacks and left Castletown of Braemar with the intention of walking to Blair Atholl through Glen Tilt, a distance of thirty miles. We might have gone by another road through Blairgowrie and Dunkeld, but as this road was upwards of sixty miles in length, and we were informed by all persons of whom we inquired at Braemar that

though the Duke of Atholl, in spite of the decision of the Court of Session, was still endeavouring to stop all who made use of the bridle-road or footpath through Glen Tilt, yet he would not dare to use violence if one insisted on a right of passage, we determined to take the shorter road. After a walk of twelve miles, then, we found our progress suddenly intercepted by a rapid mountain stream (Tarff Water), over which were lying the remains of a wooden bridge, apparently cut down but a few days previously for the purpose of stopping foot passengers. After walking eight miles farther, unmolested, through this lovely and romantic glen, we passed the Duke's hunting-lodge, and were just congratulating ourselves on having escaped hindrance, when we met a postilion driving an empty chaise, followed by a gillie driving a gig. The latter, a tall kilted fellow with moustachios and an imposing imperial, immediately called out to us in an insolent tone to stop; but as we did not condescend any answer, either verbal or practical, he threw the reins over the horse, and running round, placed himself before us in the path, and ordered us, with a bullying and menacing attitude, to go back. Upon this I took my journal book from my pocket and asked him his name, which he gave me as Alexander MacLaren; in answer to another question he stated he was acting by the Duke of Atholl's orders, and that his Grace was just below. As the man kept opposing our progress I threatened him with prosecution for assault if he dared to lay hands upon us, and told him that he had now done his duty to his master, whom we insisted upon seeing. After some time, seeing it was in vain to oppose us, he led the way down the glen to the Duke, accompanied by the Marquis of Tullibardine, the Duke's only child, a little boy, about eight years of age. In a few minutes we came in sight of a low circular enclosure of stout wall, in which were two ladies and a Highlander. The latter on our approach called out to "Sandy" to know what was the matter, and then, as we kept our course, shouted "Stop!" in as boisterous a manner as the former hero had done, and finding no notice taken of his summons,

ran round puffing and blowing in a great state of excitement and placed himself in our way. He was a shorter man than the former and similarly equipped with moustache, imperial, and kilt.¹ Finding him determined to oppose our progress, vociferating "You must go back! why didn't you stop, sir?" I again took out my pocket-book, and preparing to write, said, "What is your name?" "I am the Duke of Atholl," he replied, upon which we immediately tendered him our card (which he read and pocketed) and stated that we wished to proceed to Blair Atholl. However he insisted that we must "go back," to which we urged that the Court of Session had decided that there was a right-of-way through Glen Tilt, and therefore we could not be stopped. He replied angrily. "It is not a public way, it is my private drive! you shan't come down; the deer are coming, the deer are coming!" Upon this we expressed our willingness to retire behind the lodge till his sport was ended, but he said we had been impertinent, we claimed it as a right, and we should not go down an inch. Hereupon I said that in that case I certainly would go down, and if he stopped us it would be at his peril, upon which he became impatient, seized my companion by the collar of his coat and attempted to force him back, refusing to listen to anything he had to say. This unseemly scene took place before the eyes of the Duchess and another lady, for whose presence he had so little regard as to use oaths and other violent expressions, such as you would scarcely expect to hear from the lips of a gentleman. Finding his strength was of little avail, he shouted for help to his unwilling grooms, who were evidently enjoying the scene from a distance, and my companion, seeing opposition was useless against four men, allowed himself to be led away by a servant. The Duke then returning, full of anger, gave me over to a similar escort, and thus we were left to enjoy our reflections at

¹ *The Scotsman* thus describes the Duke: "A very strange-looking man, with a fold-up-ear cap, brown coat, dirty washed out of colour kilt, and red socks, with a telescope and gun."

the back of the lodge, while his Grace awaited the descent of his victims from the hills. The old Highlander who had charge of my companion told him the best thing we could do was to wait there till nightfall, and then finish our journey to Blair Atholl in the dark. Finding ourselves thus disappointed for the present, we climbed up the steep side of the glen to view the deer as they were driven over the hills to be slaughtered by the noble and gallant butcher below. But alas! no deer came. The Duke had had his sport for that day with us, but he was not yet content. We had been seen ascending "the brae," and accordingly two gillies were despatched after us, who, on coming up, threatened to take us up for poachers, but at length mercifully allowed us to descend the hill and pursue our way to Castletown, a distance of twenty miles! They told us we should be closely watched, and that if we stirred from the path we should be prosecuted for trespassing. On parting, they took good care to tell us that it was not their fault, and I will do them the justice to say that they did their work very reluctantly. Well, now, there was nothing to do but to take the old gillie's advice, and wait till dark. The hills on each side were very high and steep, so that, besides the danger of being taken up for trespass, it would have been no easy matter to find our way to a village distant ten miles. For four long hours, then, we were forced to walk up and down this bleak vale in order to ward off the chill of an autumn evening. When it became dark we proceeded on our way, which gave us no little trouble and uncertainty, as the darkness of the night was increased by the black shade of the pine forests. However, by midnight we had reached the hotel."