

the Order prejudicially affected their interests as such, was sufficient to entitle them to a general *locus standi*.

The Commissioners allowed a locus, and after evidence found the preamble proved.

Counsel for the Promoters—C. K. Mackenzie, K.C.—M. P. Fraser. Agent—J. A. Houston, Solicitor, Govan.

Counsel for Prince's Dock Branch Committee, *Objecting*—Wilson, K.C. Agent—James Watson, S.S.C., Edinburgh.

Counsel for the Glasgow and Paisley Joint Line Committee—Cooper—Orr Deas. Agent—H. B. Neave, Writer, Glasgow.

Friday, May 6.

(Before Eugene Wason, Esq., M.P., *Chairman*, Sir Walter Thorburn, M.P., Sir James Low, and Alexander M. Gordon, Esq.—at Glasgow.)

GREENOCK CORPORATION PROVISIONAL ORDER.

Provisional Order—Private Legislation Procedure—Locus standi—Proposed New Railway Line—Apprehension of Future Injury.

The promoters of the Order were the Corporation of Greenock, and one of its purposes was to authorise the construction by and at the expense of the Glasgow and South Western Railway Company of a short branch railway from the railway at the Albert Dock of the Trustees of the Port and Harbours of Greenock to Harvie Lane in the parish and burgh of Greenock.

The Glasgow and South-Western Railway alone had access by rail to the Albert Harbour. The Caledonian Railway Company alone had access by rail to the East, West, and Victoria Harbours in Greenock.

The Caledonian Railway objected to the Order on the grounds, *firstly*, that there was a prospective danger that the Glasgow and South-Western Railway might ultimately be enabled by railways not sought to be authorised by this Order to get access to the East, West, and Victoria Harbours; *secondly* that the Caledonian Railway would, if the new line were constructed, lose certain traffic which they at present had with the Brewers Sugar Company and other places of business along the proposed route. In their petition they stated—"The Order appears to be promoted by arrangement between the Corporation, the company, and Messrs Caird & Company, who are a shipbuilding firm in Greenock, and who are closely interested in the affairs of the company, for the purpose of enabling the company to construct a railway from the Albert Harbour to Harvie Lane, and by means of such railway to obtain access to works along the route of such railway and railway connection close up to the West Harbour of Greenock, which may, by arrangement with the Corporation and the Harbour

Trustees, and without further Parliamentary power, be connected with or extended to that harbour and the East and Victoria Harbours." . . .

The promoters' contended that the Caledonian Railway Company had no *locus standi*.

The Commissioners refused a locus on the first and allowed a locus on the second objection.

Counsel for the Promoters—Wilson, K.C.—Younger. Agents—Colin Macculloch, Town Clerk, Greenock—John Kennedy, Parliamentary Agent, Westminster.

Counsel for the Caledonian Railway Company, *Objecting*—Cooper—Deas. Agent—H. B. Neave, Solicitor, Glasgow.

Wednesday, May 18.

(Before Eugene Wason, Esq., M.P., *Chairman*, Sir Walter Thorburn, M.P., Sir James Low, and Alexander M. Gordon, Esq.—at Glasgow.)

MOTHERWELL AND BELLSHILL RAILWAY (ABANDONMENT) PRO- VISIONAL ORDER (1904).

Provisional Order—Locus standi—Abandonment of Railway Undertaking Authorised by Act of Parliament—Provisional Order for Release of Sum Deposited under Penalty Clause—Opposition by Party who Opposed Act and now Claimed Expenses of Opposition—Locus standi Refused.

The object of this Order was to authorise the abandonment of the construction of the railway and works authorised by the Motherwell and Bellshill Railway Act 1900, and to release certain deposit-funds, *inter alia*, a sum of £10,000, which under the Act of 1900 was to be paid by the promoters to the burgh of Motherwell in the event of their failing to carry out their undertaking. It was proposed in the filled-up Order laid before the Commissioners to repay and refund to the promoters £5000, and that the remaining £5000 should become the property of the Corporation of Motherwell, to be applied by the Corporation, with the approval of the Secretary of Scotland, for the benefit of the burgh.

The North British Railway Company opposed the Provisional Order.

In 1900, in the House of Commons and in the House of Lords, they had opposed the Bill and had been partially successful in a question relating to running powers. They now contended that the Provisional Order should not be passed and the promoters refunded until provision had been made for payment by the promoters of the expenses incurred by the North British Railway Company in opposing the Bill of 1900.

The promoters objected to the *locus standi* of the objectors, arguing that the proposed Order neither infringed upon or deprived the objectors of any of their legal rights.

They were making an incompetent attempt to recover costs—*Harrow, Edgware, and London Railway Bill*, 1 Clifford & Rickard, p. 83; *Dublin, &c., Railway Bill*, 1 Clifford & Rickard, p. 11; *London Central Railway (Abandonment) Bill*, 1 Clifford & Rickard, p. 170, 2 Saunders & Austin, p. 126.

The objectors argued that the insertion of the penalty clauses in the Bill of 1900 showed that there was an implied contract between the promoters and the North British Railway Company that in the event of the former abandoning their scheme the latter should obtain from the former the costs of opposing the Bill, and that as the present Provisional Order threatened their rights under that implied contract, they had a *locus standi*.

The Committee unanimously refused a locus.

Counsel for the Promoters—Alexander Wedderburn, K.C.—Lamond. Agents—H. Lamond, Lang, & Company, Writers, Glasgow—John Kennedy, Parliamentary Agent, Westminster.

Counsel for the North British Railway Company, *Objecting*—Wilson, K.C. Agent—James Watson, W.S.

Friday and Saturday, 7th and 8th July.

(Before the Earl of Kintore, *Chairman*, the Earl of Mansfield, Mr C. E. Hobhouse, M.P., and Mr Alexander Wylie, M.P.—at Glasgow.)

GLASGOW CORPORATION (POLICE) PROVISIONAL ORDER.

Provisional Order — Private Legislation Procedure — Locus standi—Separate Representation — Right of Minority of a Body already Represented as a Whole to a Separate Locus.

This Provisional Order was promoted by the Corporation of the City of Glasgow. In 1898 the Corporation had obtained a Bill empowering them to construct certain sewage works with an outfall at Braehead. Subsequently an agreement was entered into between the Corporation and the Clyde Navigation Trustees, by which the latter agreed to give certain lands of Shieldhall belonging to them in exchange for Braehead, and the Corporation agreed to construct the outfall works at Shieldhall instead of at Braehead. It was to obtain confirmation of this agreement that the present Provisional Order was promoted. The proposed exchange was one which the promoters alleged would be beneficial to both parties, the Corporation of Glasgow were unanimous in its favour, and of the twenty-five members of the Clyde Navigation Trustees only a very small minority were opposed to it.

The Order was opposed by Alexander Stephen & Sons, Limited, the Goyan Combination Parish Council, and the Allan

Line Steamship Company, Limited, and others, shipowners and payers of dues, Glasgow.

The promoters objected to the *locus standi* of the last-mentioned objectors.

The latter in the petition set forth, *inter alia*—“Your petitioners represent a considerable section of the trading interests of the port of Glasgow, and include in their number the owners and managers of the principal steamship lines trading with the port. Dues, by which the quays, harbours, and docks of the port are upheld, are levied upon the ships and their cargoes which use the port. This trade, which is largely provided by your petitioners, constitutes the source of the revenues of the Trust. . . . Your petitioners generally object to the foresaid proposals of the Order, inasmuch as they believe and allege that the Clyde dues, which are paid by your petitioners, will require to be increased in order to meet the loss of capital and income which would ensue if the proposals of the Order were sanctioned, inasmuch as the proposed new lands will not confer any benefit or add any revenue to the Trust commensurate with the revenue derived from the present wharves and quays at Shieldhall. It sacrifices most costly and valuable land belonging to the Trustees. . . . It further removes offensive sewage works, for which Parliamentary powers were obtained on the express understanding that they were to be erected on ground far away from human habitation and observation, to a place contiguous to the dwelling-houses of the working classes of the community.”

Argued for the promoters—The objectors had no *locus standi*. The Clyde Navigation Act of 1884, under which Shieldhall was acquired from the Trustees, provided that the Trustees might sell any lands already acquired and which might afterwards be acquired on such terms as the Trustees might think proper. Having power to sell under the Act of 1884, the Trustees required no further authority, and the present objectors could not maintain they were acting *ultra vires*. The present objectors as ratepayers of the Clyde Navigation Trust were accordingly represented by the Clyde Trustees, and as ratepayers of the Corporation of Glasgow by the Corporation of Glasgow, and therefore whatever interests they might have were fully represented—*London and South-Western Railway Bill*, 1 Rickards and Saunders, p. 287; *The Pier and Harbour Provisional Orders Confirmation Bill*, 3 Clifford and Rickards, p. 193. In any case an allegation that the agreement was *ultra vires* of the Trustees would not give them a *locus*, because this Court would not consider the question whether a proposal was *ultra* or *intra vires*—*The Kingstown Township Bill*, 1 Clifford and Rickard's Reports, 38. That was the decision of a Committee of Parliament and was still more applicable to the Commissioners under the Private Legislation Procedure Act. Such an objection should have been stated when the Order came before the Chairman, but an inquiry having been ordered, the duty