

(*Objecting*)—Macmillan. Agent—H. R. Buchanan, Solicitor.

Counsel for the Street Vendors of Newspapers (*Objecting*)—Gillon. Agents—Hamilton & Ballantine, Solicitors.

Counsel for the Scottish Co-operative Wholesale Society, Limited (*Objecting*)—Gentles. Agents—Keyden, Straug, & Co., Solicitors.

Counsel for J. & W. Campbell & Co., and Others (*Objecting*)—Crawford. Agents—M'Clure, Naismith, Brodie, & Co., Solicitors.

For the Glasgow Carting Contractors and Horse-owners' Association and Others (*Objecting*)—Donald Mackay, Solicitor.

For the County Council of Lanark and the District Committees of the Lower and Middle Wards (*Objecting*)—H. L. Fraser, Solicitor. Agent—Thomas Munro, County Clerk.

For the County Council of Renfrew and the District Committee of the Eastern District (*Objecting*)—Patrick Spens, Solicitor. Agents—Hill & Hoggan, Solicitors.

For the Association of House Factors and Property Agents in Glasgow (*Objecting*)—Guthrie Smith, Solicitor. Agents—Baird, Smith, Muirhead, & Guthrie Smith, Solicitors.

For the Glasgow Shipowners' Association, the Clyde Shipowners' Association, and Others (*Objecting*)—James A. Mackenzie, Solicitor. Agents—Wright, Johnston, & Mackenzie, Solicitors.

For the Glasgow Sawmillers' Association and Others (*Objecting*)—Wearing, Solicitor. Agents—Wearing & Martin, Solicitors.

V. KIRKCALDY DISTRICT WATER.

24th, 25th, 26th, and 29th July 1912.

(Before the Marquis of Tweeddale, Viscount Hood, Sir John Dewar, M.P. (*Chairman*), and Mr David Wilkie—at Edinburgh.)

Provisional Order—Water—District Water Supply—Existing Private Water Systems Supplying Works and Landed Estates within District—Rating of Property already Privately Supplied—Obligation to Take Over Private Water-works at Valuation.

This Order was promoted by the Kirkcaldy District Committee of the County Council of Fife, and was a sequel to the *Wemyss and District Water Order*, July 29, 1909, 46 S.L.R. 1050. By the latter Order the Wemyss Water Trust was constituted and empowered to introduce a water supply for their district from Glenfarg, but under the condition that the promoters of the present Order might, if so advised, come in within a limited time and join with them in the proposed scheme, there being a sufficiency of water obtainable from Glenfarg for both districts.

The object of the present Order was to take advantage of the above-mentioned

condition, and obtain for the Kirkcaldy district of Fife an adequate water supply from the Glenfarg source.

There were a number of objectors to the Order, who, however, for the most part fell within one or the other of two categories, viz., (1) colliery companies and others who had established water supplies for themselves and their employees, mainly from pit water, and (2) landed proprietors who for themselves, their tenants, and feuars had existing water supplies on their estates. Both these sets of objectors opposed the preamble of the Order on the ground that the scheme was unnecessary, and in any view in excess of the requirements of the district. In particular, they objected (1) that the mode of rating proposed by the promoters was unfair to them, and (2) that they would be subjected to loss owing to their existing water-works being rendered unnecessary, although they were in fact quite sufficient for their purposes.

The rating provisions of the Order proposed that there should be a public water rate levied over the whole district, and also a domestic water rate levied on all lands and heritages (including minerals, at one-fourth of the valuation thereof) situated within 100 yards of the promoters' pipes.

After certain evidence had been led on behalf of the promoters, the Commissioners indicated their opinion that in respect of the general benefit which would accrue to the health of the district it was reasonable to exact the public water rate from all the inhabitants. Subsequently an agreement was arrived at between the promoters and the objectors, under which the latter withdrew their opposition to the preamble, subject to an adjustment of clauses which would afford them some measure of compensation for their private water-works, to be fixed in each case by a single arbiter, at such time as the promoters were in a position to supply them with water and became entitled to levy on them the domestic water rate provided by the Order.

The adjustment of clauses in pursuance of the above settlement between the parties was then proceeded with by the Committee.

Provisional Order—Water—District Water Scheme—Arbitration Clause—Taking Over Existing Private Water-works—Allowance for Depreciation of Works—Differentiation between Works Utilisable and Works not Utilisable.

It was proposed by the promoters that arbiters appointed to ascertain the value of any existing water-works, in accordance with the above settlement, should be directly instructed in the Order to take into account, (1) any depreciation on the works, and (2) the extent to which such works would be utilisable by the County Council.

Argued for the promoters—(1) This condition was reasonable, and merely expressed what it would be incumbent on the arbiter to do in the absence of direct instruction.

The mere fact that it was objected to showed the necessity for having this definitely expressed (2) It was only fair that in reaching his valuation the arbiter should differentiate between such parts of the works as would be useless to the County Council and such as would be of service to them. It did not necessarily imply that no value should be put on the former, but that there should at least be a modification of value in respect of them. It was only fair that there should be a distinction between what was of full value to the County Council and what had merely scrap value. In the case of colliery water-works it was particularly necessary that the promoters' obligation to take over the plant should be limited as proposed.

Argued for the objectors—(1) The proposed instruction as to depreciation was unnecessary, as depreciation fell naturally to be allowed by the arbiter if he thought it right to do so. (2) It would be no concession to the objectors if they were merely to get under the arbitration the value of the pipes in the ground. These, if not already there, would have to be provided by the County Council themselves. There was no valid reason for differentiating between water-works of coal companies and those of landed proprietors. In each case the supply was the best that could be got in the circumstances, and although the plant required might be different, it was equally necessary for the purpose. Further, the order bore more hardly on coalowners than on agricultural proprietors, owing to minerals being subject to the domestic water rate without receiving any corresponding benefit.

The CHAIRMAN intimated that the Commissioners were of opinion that the first instruction to the arbiter, viz., with regard to depreciation, should be given in the clause, but that the second instruction proposed by the promoters should not be given.

The clause as to arbitration as finally adjusted was as follows:—"The arbiter so to be appointed shall fix the price after inspection of the undertaking and consideration of such documentary or other evidence as he may in his discretion require, and shall allow for structural value only in addition to the value of reservoir and tank sites, and shall have regard to depreciation of the undertaking, and make no allowance in respect of way-leaves or goodwill or compulsory acquisition, or in respect of the water rights of the proprietor; and further, shall fix the price of the sites of any reservoirs and tanks on the footing that no right of support therefor is conferred by the proprietors on the County Council."

Provisional Order—Water—District Water Scheme—Rating Clause—Subjects having Private Water Supplies—Exemption from Domestic Water Rate—Postponement of Date when Domestic Rate Leviable.

Clauses were also given by the Commissioners providing as follows—(1) That the lands and heritages of certain proprietors,

presently supplied with water from their private water-works, should not be subject to domestic water rate until the whole of such works had been acquired by the County Council. (2) That in the case of certain proprietors whose private water supplies were at present unexceptionable, no supply should be introduced by the County Council, and no domestic rate should be charged so long as the present supply remained adequate for domestic purposes. (3) That in certain other cases where there were at present private supplies, the domestic water rate should not be levied for a period of ten years from the date of the Order, unless the County Council should take over the proprietor's water-works prior to the expiry of that period.

The Commissioners found the preamble proved, and on clauses being adjusted, the Order was reported to the Secretary for Scotland.

Counsel for the Promoters—Constable, K.C.—Cochran Patrick. Agents—Beveridge & Aitken, Solicitors, Kirkcaldy—J. Kennedy, W.S., Westminster.

Counsel for the Water-works Commissioners of Kirkcaldy and Dysart—M'Clure, K.C.—J. B. Young. Agents—J. & J. L. Herd, Solicitors, Kirkcaldy—James Skinner, S.S.C.

Counsel for the Fife Coal Company and others (*Objecting*)—Macmillan, K.C.—Hon. W. Watson—E. O. Inglis. Agents—Davidson & Syme, W.S.—Ross & Connell, Solicitors, Dunfermline.

Counsel for Mr C. B. Balfour and Mr Edward Balfour (*Objecting*)—Macmillan, K.C.—Hon. W. Watson. Agents—Strathern & Blair, W.S.

Counsel for Tullis, Russel, & Co., Limited (*Objecting*)—Macmillan, K.C.—Hon. W. Watson. Agents—Davidson & Syme, W.S.

Counsel for John Fergus & Co., and Others (*Objecting*)—Dunbar. Agents—Moir, Forbes, & Guy, Solicitors, Glasgow.

Counsel for the Rothes Trustees (*Objecting*)—J. B. Young. Agents—Tods, Murray, & Jamieson, W.S.

Counsel for the Wemyss and District Water Trustees—W. T. Watson. Agents—E. Greig, Solicitor, Methil—Beveridge, Greig, & Co., Parliamentary Agents.

Counsel for Robert Tullis (*Objecting*)—Pringle—Bruce. Agents—Bruce, Kerr, & Burns, W.S.

Counsel for Trustees of the late J. L. Boyd (*Objecting*)—Horne, K.C.—J. G. Jamieson. Agents—Boyd, Jamieson, & Young, W.S.