

was sought. Some works had been constructed under order issued by the competent naval authority under the Defence of the Realm Acts, and it was sought to make these a permanent part of the scheme. Under the 1913 Order the compensation water was to have been 35 per cent. of the flow passed down the stream by means of a bye-pass which was to be constructed before any water whatever was taken, and now a different arrangement had been made with the parties interested, whereby the amount of water which might be taken by the authority was limited unless and until it made a compensation reservoir. The agreement made in 1913 with Dunfermline burgh for the supply to it of a certain amount of water at a price was sought to be altered as to the price.

Dunfermline Burgh were the only *objectors* who appeared, and the objection came to be restricted to the question of the alteration of the price of the supply to the burgh authority. Under the agreement in 1913 the price for the first 600,000 gallons was 1-75d. per 1000 gallons, with a falling charge for any further quantity. The promoters in view of the additional cost of the works asked that the price should be referred to an arbiter, while the burgh maintained that in the absence of evidence of gross inequity the contract made in 1913 between the parties should be maintained. Eventually the objectors offered a capital sum representing an additional 4d. on the first 600,000 gallons, which offer the promoters were willing to accept provided the question of price was, after the compensation reservoir was made, remitted to an arbiter, but the objectors would only consent to a reference so far as the price was affected by the making of the compensation reservoir. The Commissioners *ruled* in favour of the promoters.

By the agreement in 1913 the District might within six months raise before an arbiter a claim for compensation for the loss of a considerable portion of their district transferred as to supply of water (as it had been in other respects by private bill in 1911; *v. 48 S.L.R. 1097*) by the Order. This had not been done within the time specified, and it was argued the right had lapsed. Parties, however, agreed that the claim should still be open, provided it was not advanced till after the war was over.

The burgh had objected to an extension of time unless provision was made for its obtaining a supply meanwhile at a price to be fixed by an arbiter. Counsel for the promoters intimated that his clients would do what they could to supply the burgh if necessary, and that counsel for the burgh was willing the matter should rest there. He had thought it right this should appear in the proceedings.

Clauses were adjusted.

Counsel for the Promoters—Macmillan, K.C.—Gentles. Agents—Macpherson & Mackay, S.S.C., Edinburgh.

Counsel for the City of Dunfermline (*Objecting*)—Wilson, K.C.—Constable, K.C. Agents—Andrew Shearer, Town-Clerk, Dunfermline—Beveridge & Company, London.

4th and 5th October 1918.

GLASGOW AND SOUTH-WESTERN  
RAILWAY (AYR HARBOUR  
TRANSFER).

(Before the Earl of Wemyss (*Chairman*),  
Lord Southwark, Sir Henry Craik, M.P.,  
and Sir John M'Callum, M.P.—at Edin-  
burgh.)

*Railway — Harbour — Locus — Right to  
Appear of Other Railways where One Rail-  
way is Acquiring a Harbour.*

The Glasgow and South-Western Railway Company promoted this Order for the purpose of acquiring the harbour of Ayr, taking power also to spend £50,000 upon it. The harbour had always been in financial troubles, and had received help at various times from the Railway Company. Money was again required partly to remedy defects, partly to improve and equip the harbour for the handling of the traffic. The Harbour Trust had not seen its way to raise the required funds, and had approached the Railway Company, with whom terms for a transfer had been arranged. Opposition to the proposal had become restricted to that on the part of (1) the Lanarkshire and Ayrshire Railway Company and (2) the Royal Burgh of Irvine.

Of the harbours on the Ayrshire coast the most northerly, Ardrossan, was owned by a public company, served by the lines of the Glasgow and South-Western and the Lanarkshire and Ayrshire Railway Companies; Irvine was a burgh harbour managed by a Harbour Trust, and served by the lines of the Glasgow and South-Western Railway, the other railway company's line not coming beyond the burgh itself; Troon had been a private harbour, and had recently been acquired by the Glasgow and South-Western Railway Company, whose lines served it; Ayr was the fourth, and was served by the Glasgow and South-Western Railway Company's lines, over which, however, the Caledonian Railway Company had certain running powers.

The Lanarkshire and Ayrshire Railway Company was an owning company, its line being worked and managed in perpetuity by the Caledonian Railway Company. The nearest point to Ayr on its line was about 11 miles distant. It objected to the present proposal as conferring virtually a monopoly of the harbour accommodation of the Ayrshire coast, excepting Ardrossan, on the Glasgow and South-Western Railway Company, and as being detrimental to Ardrossan, the only harbour to which it had access. Ardrossan Harbour Company had settled with the promoters on the basis of equality of rates.

Objection was taken to the *locus* of the Lanarkshire and Ayrshire Railway Company, but this the Commissioners *granted*. On the evidence this opposition came down to a demand for running powers into Ayr harbour over the Glasgow and South-Western Company's lines, with which a con-

nection would require to have been made. This the Commissioners *refused*.

The Royal Burgh of Irvine and its Harbour Trust opposed the Order on the ground that its harbour was in a precarious position financially, that the Glasgow and South-Western Railway Company's obligation to assist it had been recognised in its having previously given help but that such help had been elusory, that the present proposal was to strengthen and develop its rival Ayr, that that should not be allowed unless steps were at the same time taken to strengthen and develop Irvine. The promoters made no offer in that direction.

The Commissioners found the preamble proved and clauses were adjusted.

Counsel for the Promoters the Glasgow and South-Western Railway Company—Sandeman, K.C.—Macmillan, K.C.—C. H. Brown. Agents—Maclay, Murray, & Spens, Solicitors, Glasgow.

Counsel for the Royal Burgh of Irvine and for the Lanarkshire and Ayrshire Railway Company, *Objecting*—Constable, K.C. Agents—David Gillies, Town-Clerk, Irvine, for that Burgh—Keyden, Strang, & Company, Solicitors, Glasgow, for the Railway Company.

Counsel for the Royal Burgh of Ayr—Gentles. Agent—P. A. Thomson, Town-Clerk, Ayr.

D. B. Murray, Solicitor, instructed by Keyden, Strang, & Company, watched on behalf of the Ardrrossan Harbour Company; William Johnstone, instructed by Wright, Johnston, & Company, Solicitors, Glasgow, on behalf of Ayr Harbour Trustees; and D. L. Forgan, Solicitor, Glasgow, on behalf of the Caledonian Railway Company.

6th to 9th May.

#### GLASGOW CORPORATION.

(Before Lord Oranmore and Browne (*Chairman*), Earl of Malmesbury, J. D. Hope, M.P., and J. L. Sturrock, M.P.—at Glasgow.)

*Provisional Order—Locus—Appearance Belated—Failure to Realise Scope of Proposals.*

One of the provisions of this Order was to release the Corporation from any obligation to provide accommodation for the carrying on of the Clothes Market, an ancient market of Glasgow. On the morning of the opening of the inquiry counsel for the promoters was given a typewritten petition against this provision, which had so far been unopposed, presented on behalf of the tenants of the market. Objection was taken to the *locus standi* of these petitioners on the ground that they had not observed the prescribed manner for objecting and the prescribed time within which to object—Private Legislation (Scotland) Procedure Act 1899 (62 and 63 Vict. cap. 47), section 6 (2). An agent was heard on behalf of the petitioners as to there being any special grounds on which a *locus* should be allowed. From his state-

ment it appeared that the site of the market had recently been changed, and the tenants had till too late failed to realise that the Order proposed, not to deprive them of the old market-place only, but also of the substituted or any accommodation. He submitted that, looking to the negotiations which had taken place between the parties and the whole circumstances, a *locus* ought to be allowed. The *locus* was *refused*.

*Provisional Order—Burgh—Private Legislation—General Legislation—Alteration of General Legislation by Private Legislation—Public Health—Burial-Grounds' Exemption from Rating.*

The Order proposed to increase the power of assessment of the Corporation with regard to three rates—the police rate, an occupiers' rate, by 1s. in the case of occupiers of £10 and over, and by 6d. in the case of occupiers of under £10; the public health rate, an owners and occupiers' rate, by 3d.; the sewage rate, an owners and occupiers' rate, 1d. The police and sewage rates were assessed under Glasgow's private legislation; the public health rate under the Public Health (Scotland) Act 1897, which had fixed the maximum rate at 1s. Unopposed proposals were to alter the classification of property as given above to that of over £10 and £10 and under, and to withdraw the exemption of property used for religious and charitable purposes so far as regarded an owner who had let property for such purposes. It was, however, also proposed to abolish the exemption from rating enjoyed under the Rating Exemption (Scotland) Act 1874 by cemetery companies having their burial-grounds within the city. The Clyde Navigation Trustees opposed the police assessment provisions on the question of what abatement should be allowed them. Property owners opposed those regarding the public health and sewage assessments, and the cemetery companies the proposal to withdraw the exemption of burial-grounds.

The Commissioners, on the ground of the inexpediency of proceeding by private bill to overrule what is the public law of the land, found the preamble so far as regarded the public health rate and the burial-ground exemption not proved, and they allowed the Clyde Navigation Trustees an increase in the abatement they enjoyed as from certain dates.

*Provisional Order—Burgh—Improvement Scheme—Sinking Fund—Owners and Occupiers—Creation at a Later Date of Sinking Fund for an Old Improvement Scheme.*

In 1866 an improvement scheme had been authorised which contemplated the property acquired being sold after improvement, and the debt incurred for the scheme being repaid with the proceeds of the sales. The scheme included a power of assessment on occupiers only. This power was by a subsequent Act in 1880 made available for defraying any deficit on the completion and winding up of the scheme. Very little of the properties had been sold, and the debt still stood at over a million. In some years the rental had been sufficient and no assess-