

issue of the Order provided these grants are assured to the promoters, and accordingly they caused a provision to be inserted suspending the operation of the Order till the Secretary for Scotland be satisfied that arrangements have been made for these grants being obtained."

Counsel for the Promoters, the Town Council of Buckie—Wilson, K.C.—Munro. Agents—John L. McNaughton, Solicitor, Buckie; Sim & Garden, S.S.C., Leith.

Counsel for the Trustees of the late John Gordon of Cluny, *Objecting*—Dundas, K.C.—Hunter. Agents—Skene, Edwards, & Garson, W.S.

Counsel for the Great North of Scotland Railway Company, *Objecting*—Campbell, K.C.—Ferguson. Agent—James Ross, Aberdeen.

Counsel for Lady Seafield, *Objecting*—Constable. Agents—Mackenzie, Innes, & Logan, W.S.

Monday, April 28; and Tuesday,
April 29, 1902.

(Before Lord Clifford of Chudleigh, *Chairman*, Lord Frankfort de Montmorency, Mr Charles Guy Pym, M.P., and Mr Eugene Wason, M.P.—at Edinburgh.)

ABERDEEN SUBURBAN TRAMWAYS.

Private Legislation Procedure—Provisional Order—Locus Standi—Railway Company Opposing Electric Tramway Company Order—Electric Tramways Competing with Railway—Supply of Electric Power by Corporation for Use Outside Municipal Area—Objection by Ratepayers.

Certain individuals presented this Order with a view to form a private company for making and working by electricity certain suburban tramway lines in Aberdeen. Two lines of tramways were proposed—one for Deeside and one for Donside—both lying in the county of Aberdeen.

The Great North of Scotland Railway Company appeared as objectors. They objected mainly on the ground that the proposed tramway was in competition with the railway; and as ratepayers, on the ground that power was sought under the Order to enable the Corporation of Aberdeen to enter into an agreement for working tramways and supplying electricity outside the municipal area.

The promoters maintained that the objectors were not entitled to a *locus standi*.

Argued for the promoters—(1) The objectors had no *locus standi* on the ground that the tramway lines would compete with the railway. There were numerous cases where tramways ran alongside railways, but a tramway was not a railway, and that point underlay the whole question of *locus standi*. The principle that governed the granting of *locus* on the ground of competition, was that the person who sought the *locus* must be carry-

ing on the same or substantially the same business as the promoter of the undertaking to which he objected. The electric tramway was not a railway. The whole undertaking was different. The tramway did not carry goods. It would be a misfortune if the *locus* of a railway to oppose a tramway scheme of this kind was recognised in Scotland when the referees of the House of Commons refused to recognise it—*Dublin Southern Tramways Bill 1893*, Rickart & Saunders, 242; *Dublin United Tramways Bill 1897*, 1 Saunders & Austin, 157; *Greenock and Port-Glasgow Tramways Bill 1899*, 1 Saunders & Martin, 322. The only exception was *Dublin Southern District Railways Bill 1898*, 1 Saunders & Austin 242, in which case the railway got a *locus*, but the railway there was a suburban railway running trains every three minutes, and it might have been held that that was the same sort of service as a tramway. (2) As regards the opposition of the Railway Company as ratepayers, the tramways were to be run outside the city in the county. There was no danger of any loss due to the supply of electricity by the Corporation falling on the objectors as ratepayers. The Corporation would get a good return if they supplied the power. The electricity, too, would all be delivered to the promoters within the boundaries of the city, and carried thence to be used.

Argued for the objectors—(1) There would be here a real competition between the railway and the tramway which it was proposed to run alongside the railway. That was sufficient to give a *locus*. It would be impossible to conceive a tramway scheme more in competition with a railway than this one, because it was actually laid side by side with the railway. (2) They were interested as the largest ratepayers in the city in objecting to powers being taken to enable the Corporation to enter into agreements for working tramways outside the municipal area. Within the city the Corporation were restricted by their Acts requiring them to fix such rates as would be remunerative and not involve falling back on the assessments. But if the Corporation worked the tramways proposed they would be free from such restrictions. Also as ratepayers they had a *locus* to object to the Corporation being authorised to deliver large quantities of electricity at their boundary for the purpose of being used outside their boundary. That was traffic and trade to which ratepayers might well object. The cases mentioned by the promoters did not apply, because they were cases of the conversion of existing schemes from horse haulage to electrical or mechanical power.

The Commissioners granted the objectors a *locus standi*. In the course of the proof the CHAIRMAN, dealing with the relevancy of certain questions put by counsel for the objectors, said—"You (the objectors) have asked for a *locus standi* on the ground that you would be injured by the competition of this tramway, and on these grounds

the Commission granted your *locus standi*. It is not a general *locus standi* to go into the question whether the scheme is a good one or a feasible one, or suited to the requirements of the neighbourhood, and such points; it is a narrow point whether a railway under those circumstances has a *locus standi* at all, and we decided on the question of your being injured by the competition of this tramway that you have a *locus standi* to that extent. If it had not been for the fact that you are likely to be influenced adversely by the competition we should have decided that you had no *locus standi*, in which case we should have to be content with our knowledge of whether it is a good scheme for the neighbourhood, and for general purposes or not, and therefore we consider that under those circumstances you have not a *locus standi* as to whether it is a workable scheme or not. Your contention is that it is a scheme which will injuriously affect you, and therefore questions as to whether it is likely to be a good scheme or not ought not to be allowed."

The Commissioners ultimately held the preamble of the Order proved.

Counsel for the Promoters — Dundas, K.C.—Dove Wilson. Agents — Morice & Wilson, Advocates, Aberdeen.

Counsel for the Objectors, Campbell, K.C. — Ferguson. Agent — James Ross, Aberdeen.

Tuesday, April 29, 1902.

ABERDEEN SUBURBAN TRAMWAYS PROVISIONAL ORDER.

Private Legislation Procedure — Locus of Sitting of Commission — Questions and Replies in House of Commons.

In the House of Commons on Tuesday, April 28, 1902, Mr PIRIE (Aberdeen N.) asked the Lord Advocate, as representing the Secretary for Scotland, whether he was aware that the Chairman of Commissioners recently appointed under the Private Legislative Procedure (Scotland) Act 1899, to hold the inquiry in the case of the Aberdeen Tramways Provisional Order, had stated that the decision to hold the inquiry in Edinburgh was come to by the Scottish Office and not by the Commissioners, and that in his opinion the inquiry should have been held in the locality concerned, and whether before the place of inquiry was decided upon any opportunity had been afforded to the promoters and opponents of the Provisional Order of being heard on the convenience of the place for holding the inquiry.

The LORD ADVOCATE replied—The promoters and opponents were not formally heard as to the place of inquiry. No such hearing was asked for, but due consideration was given to communications made to the Scottish Office and its representatives in the matter.

Mr BRYCE (Aberdeen S.) asked whether it was not a fact that by the Act the decision as to where the inquiry was to be held was left with the Commissioners?

The LORD ADVOCATE—Yes, sir. I have already stated that the Act simply says that the Commissioners shall hold the inquiry where they please.

Mr PIRIE also asked the Lord Advocate, as representing the Secretary for Scotland, whether, in the cases of the Aberdeen Tramways Provisional Order Bill and the Buckie Harbour Provisional Order Bill the Commissioners appointed to hear the same under the Private Legislation Procedure (Scotland) Act 1899, had, of their own motion, with due regard to the subject-matter of the proposed Orders, and to the locality to which their provisions relate, and without any reference to or instructions or suggestions from the Secretary for Scotland, determined to hold the inquiry in Edinburgh instead of at Aberdeen; if so, whether, in so deciding, the Commissioners had before them and under their consideration the nature of the inquiry and the extra expenses which would be entailed upon those promoting and upon those opposing the said Orders owing to the inquiry being held in Edinburgh instead of in Aberdeen.

The LORD ADVOCATE—It is very desirable not to delay the announcement of the place and date of an inquiry under the Private Legislation Procedure Act to allow of the necessary arrangements being made by parties. It has therefore been the practice for the Secretary for Scotland as soon as possible to consult with the Chairman of Commissioners, and on obtaining his concurrence to announce the place and date immediately after the Commissioners have been appointed. Under these circumstances no preliminary meeting of the Commissioners has been usual for the purpose of determining the place and date of inquiry, and so far as the Secretary for Scotland is aware no such meeting was held in the cases referred to.

Tuesday, April 29, and Wednesday,
April 30, 1902.

ABERDEEN SUBURBAN TRAMWAYS PROVISIONAL ORDER.

Private Legislation Procedure — Locus of Meeting of Commission—Fixing Locus—Discussion in House of Commons on Motion for Adjournment—Statement by the Chairman of the Commissioners.

DISCUSSION IN HOUSE OF COMMONS ON MOTION FOR ADJOURNMENT.

Mr PIRIE (Aberdeen N.) asked leave to move the adjournment of the House in order to call attention to a definite matter of urgent public importance—namely, the act of the Secretary for Scotland in interfering with the action of the Commissioners to hold an inquiry under the Private Bill