

referred to) had finally determined the independence of the docks of either municipality and recognised them as an independent national concern. No change of circumstances had arisen to justify the revival of that agreement; on the contrary, the question of the existing exemption had been repeatedly under Parliamentary consideration down to as late a date as 1903, and on every occasion the exemption had been continued. It was impossible that the docks which did their own lighting, cleansing, and road-maintaining were to be assessed for these purposes in the town of Leith.

The Commissioners found the preamble proved by the casting vote of the chairman in regard to the repeal of the exemption of the Dock Commissioners from liability for the burgh general assessment, the general improvement rate, the burgh sewerage rate, and the roads and bridges assessment, in respect, in all cases, of one-half the annual value of the lands and premises of the dock undertaking as appearing on valuation roll. The Chairman and Lord Torphichen voted for the repeal of the exemption *quoad* one-half of these rates and assessments, and Lord Saltoun and Viscount Dalrymple voted against such repeal.

The Commissioners, unanimously, also found the preamble proved as regards the public health assessment and as regards the tramways account, but not proved as regards the proposal to repeal the provision that the persons elected Dock Commissioners by the Town Council of Leith should not at the time be members of the Town Council.

In the House of Commons on 16th July 1907, on the second reading of the Confirmation Bill of this Order, a motion was made that the Order be remitted to a Committee of both Houses for rehearing. The motion was supported on the ground that the Commissioners had been equally divided in opinion upon the question of exemption; the question was one of general importance and vitally affected the financial position of the docks, and it was not expedient that the *status quo* should be reversed only by a casting vote. This was clearly a case to which the provisions of the Private Legislation Procedure Act for a rehearing should apply.

The motion was opposed upon the merits of the decision, and also upon the ground that a rehearing should not be granted unless either new facts had emerged or a case of flagrant injustice had been made. The motion was defeated by a majority of 156 (80-236).

In the House of Lords on August 2nd, on the motion for the second reading of the Bill, Lord Saltoun moved its rejection on similar grounds to those advanced in support of the motion for rehearing in the House of Commons. Lord Balfour of Burleigh regretted that a rehearing had not been ordered. He deprecated throwing out the Bill lest injustice should thus be done to one or other party. He instanced the case of the *Rutherglen Burgh Order* of

1906 (reported *ante*), where a decision had been given contrary to justice, but where, under pressure of the House of Lords, an agreement had been arrived at between the parties. He moved for an adjournment, that such an opportunity might be given here. The motion for adjournment was agreed to.

On August 7th, parties not having come to an agreement, the Bill was read a third time. On the question that the Bill do pass the Earl of Plymouth moved that clause 4 (repeal of existing exemptions) be struck out of the Bill. This motion was carried by a majority of 8 (45-37).

Counsel for the Promoters—Wilson, K.C.—Murray. Agent—T. B. Laing, Town Clerk, Leith.

Counsel for the Leith Harbour Commissioners—Dickson, K.C.—Clyde, K.C.—J. H. Millar. Agent—Victor Noel Paton, W.S.

#### IV. PORTOBELLO AND MUSSELBURGH TRAMWAYS (LEVENHALL EXTENSION) ORDER.

The object of this Order was to enable the Musselburgh and District Electric Traction Company, Limited, to construct a tramway from Levenhall, in the burgh of Musselburgh, for a distance of about half a mile to the eastern boundary of the burgh, thus completing an extension of the company's line from its present terminus at Levenhall eastwards as far as Cockenzie and Port Seton.

The Order was opposed by the Town Council of Musselburgh, who sought to impose upon the Tramway Company an obligation to widen certain parts of the road at their own expense. After hearing evidence the Commissioners found the preamble proved, and after further discussion the Commissioners decided that in the event of the Board of Trade requiring the road to be widened as a condition of sanctioning the tramway the Tramway Company should execute the widening at their own cost, but if the Board of Trade did not impose that condition and the Town Council resolve to execute the widening the Tramway Company should contribute one half of the cost, not exceeding £1000.

Heard in Edinburgh 29th and 30th April 1907.

#### V. EDINBURGH AND DISTRICT WATER.

This Order was promoted by the Edinburgh and District Water Trustees. Its objects were, *inter alia*, the construction of certain subsidiary works, definition of the height to which the trustees might be called on to supply water, the authorisation of retiring allowances to officials, alteration of certain provisions as to sinking fund. Upon these points the Order was unopposed. The Order further sought powers in connection with a rail-

way which was laid by the Trustees under an Act of 1895 in connection with the construction of the Talla reservoir. The said Act provided that upon the completion of the Talla works the railway should be taken up and the lands treated as superfluous lands. In the Order powers were sought to continue the railway as a convenience of access to the Talla works for the purposes of repair, supervision, or extension thereof. This part of the Order was opposed by Sir Basil Montgomery, the owner of certain lands the access to which was crossed by the said railway by a crossing on the level. In 1895, under an agreement with the Trustees, the objector's author had conveyed to the Trustees for the construction of the railway certain lands over which this right of access existed, under reservation of his right of access in future. The objector claimed that the agreement of 1895 was entered into in view only of the construction of a temporary line, and that his interest would be prejudiced by its continuance. The Commissioners found the preamble proved, but were of opinion that certain provisions for Sir Basil Montgomery's protection should be made, reserving to him the right of opposing any application by the trustees to sell or lease the railway for public traffic, and in such a case reserving his claim for further compensation, and securing reasonable arrangements to avoid inconvenience to him or his tenants and facilitating access to his lands.

Heard in Edinburgh 23rd and 24th July 1907.

#### VI. GALASHIELS DRAINAGE AND BURGH EXTENSION.

This Order was promoted by the Provost, Councillors, and Magistrates of Galashiels to obtain powers to construct a new system of drainage and purification works for the burgh. Powers were also sought to include within the burgh boundaries the site of the proposed purification works, being a piece of ground extending to 31 acres, partly agricultural and partly waste land, lying in immediate proximity to the burgh. There was no opposition to the preamble, but a report was put in under section 11 (3) of the Private Legislation Procedure Act by the County Council of Roxburgh objecting to the Order on the grounds that the proposed annexation was not necessary for the purposes of the Order and that the reporters would be prejudiced by loss of rateable area and in respect of capital sums laid out in connection with the construction of a bridge partly within the area. Evidence was led for the promoters and an explanation made that the usual clauses for the adjustment of property liabilities between the two authorities concerned had been inserted in the Order. The Commissioners found the preamble proved. On clauses certain provisions were inserted in the Order to protect the interests of the Tweed Commissioners in

the case of temporary discharges of effluent direct into the river Gala being necessitated either during repair of the works or during floods.

Heard in Edinburgh 25th July 1907.

#### VII. PAISLEY AND DISTRICT TRAMWAYS ORDER.

The main object of this Order was to obtain authority to construct a tramway about three miles in length between Barrhead and Thornliebank, thus giving direct tramway communication between Glasgow and Barrhead. The Order was opposed by the County Council of Renfrew, the Clyde Valley Electrical Power Company, and by Sir John Stirling Maxwell of Pollok. In the course of proceedings a settlement was arrived at with all the objectors. To meet the views of the County Council the promoters agreed to expend £750 towards the expense of widening a certain bridge. The opposition of the Clyde Valley Electrical Power Company was met by an undertaking by the promoters not to enter into any agreement with the Corporation of Glasgow for the supply of electrical energy without the consent of the objectors. The promoters agreed to construct the tramway line on ground belonging to Sir John Stirling Maxwell at the side of the public road instead of in the centre of the road as proposed in the draft Order.

Heard in Edinburgh 25th and 26th July 1907.

#### VIII. DUNDEE CORPORATION ORDER.

25th and 26th July 1907.

(Before Mr John Dewar, M.P., *Chairman*, Lord Saltoun, Lord Torphichen, and Lord Dalrymple, M.P.)

*Provisional Order—Locus—Burgh—Extension of Boundaries—Tramway Company Opposing—General Locus of Tramway Company qua Ratepayer and Proprietor within Area Proposed to be Annexed.*

This Order was promoted by the Corporation of Dundee. Its main object was the extension of the burgh boundaries by the annexation of the suburb of Downfield to the north, and of a strip of land lying to the north and east and adjoining the burgh of Broughty Ferry, and all situated in the county of Forfar. The County Council of Forfar did not oppose the Order. It was opposed by the Broughty Ferry and District Tramway Company, who own and work a tramway within the district proposed to be annexed. The Broughty Ferry and District Tramway runs from the existing boundaries of Dundee first for a distance of about one-sixth of a mile through that part of the county lying between Dundee and Broughty Ferry which it was proposed by the Order to annex, thence through the